

REGULATORY IMPACT STATEMENT

DEPARTMENT OF TAXATION AND FINANCE

1. Statutory authority: Tax Law, section 171, subdivision First, authorizes the Commissioner of Taxation and Finance to make reasonable rules and regulations, which are consistent with 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. Tax Law, sections 315(b), 697(a), 1096(a), 1142(1), 1250 (not subdivided), 1312(a), 1332(a), 1342 (not subdivided); General City Law, section 25-n(e); Administrative Code of the City of New York, sections 11-1797(a) and 11-1943 (not subdivided); Codes and Ordinances of City of Yonkers, section 15-108; such statutory provisions authorize rules and regulations for the implementation and administration of the petroleum business tax, personal income tax, corporation tax, business corporation franchise tax, banking corporation franchise tax, insurance corporation franchise tax, sales and compensating use taxes, New York City Personal Income Tax, Yonkers Income Tax, City of Yonkers earnings tax and the New York City nonresident earnings tax imposed by or pursuant to, respectively, Articles 13-A, 22, 9, 9-A, 32, 33, 28, 29, 30, 30-A and 30-B of the Tax Law (imposed by Chapter 15 of the Codes and Ordinances of the City of Yonkers) and Article 2-E of the General City Law (imposed by Title 11 of the Administrative Code of the City of New York). Section 1(k) of Part R of Chapter 85 of the Laws of 2002 authorizes the Commissioner of Taxation and Finance to promulgate regulations necessary to implement the provisions of the amnesty program and section 38(b) of Part R authorizes the Commissioner

to promulgate regulations on an emergency basis to implement the provisions of the amnesty program.

2. Legislative objectives: Part R of Chapter 85 of the Laws of 2002 established an Amnesty Program to be administered by the Commissioner of Taxation and Finance. Section 1 of Part R provides that the program is effective for the period as prescribed by the Commissioner. In this rule, the Commissioner exercises regulatory authority by setting the beginning and ending dates for the Amnesty Program.

3. Needs and benefits: The rule is necessary and beneficial because it sets the dates for the 2002 - 2003 Amnesty Program, which was not done in the statute. The dates must be fixed in order to implement the program. The rule will give notice to taxpayers about the dates. The program generally benefits taxpayers by providing a waiver of penalties and a two percent reduction in the applicable rate of interest. Eligible taxpayers include taxpayers owing any tax or surcharge imposed, formerly imposed, or authorized by numerous sections and articles of the Tax Law covering personal income tax, withholding tax, sales and use taxes, excise taxes, miscellaneous taxes, and corporation and corporation franchise taxes, including some local taxes administered by the Department. The Amnesty Program generally applies to tax liabilities for all tax periods ending, or uses or transactions occurring, prior to January 1, 2001. However, for taxes which require the filing of quarterly returns, or an annual return due on the last day of February (e.g., sales tax), the program applies to tax liabilities for tax periods ending or transactions or uses occurring on or before February 28, 2001, and applies

to estate tax liabilities of decedents with a date of death on or before February 1, 2000.

4. Costs: There are no costs to regulated parties for the implementation and continuing compliance with this rule beyond those already imposed by statute. This rule merely sets the dates for the Amnesty Program.

There are no costs to this agency, the state or local governments for the implementation and continuation of this rule. The Amnesty Program was established by statute and this rule merely sets the dates for the program.

This analysis is based on a review of the statutory provisions and on discussions among personnel from the Department's Technical Services Bureau, Office of Counsel, Division of Tax Policy Analysis, Bureau of Fiscal Management, and Client Services Division.

5. Local government mandates: There are no local government mandates stipulated by the rule.

6. Paperwork: There are no paperwork requirements created by the rule.

7. Duplication: This rule does not duplicate, overlap or conflict with any relevant rules or other legal requirements of the State and Federal governments.

8. Alternatives: An alternative to making this proposal would be not making the proposal. However, it is necessary to make this proposal to implement the Amnesty Program created by statute.

The rule sets a period of time, November 18, 2002 to January 31, 2003, for taxpayers to apply for amnesty under the Amnesty Program. The beginning date of the period, November 18, 2003, was chosen after an examination of

dates which would best allow the Department adequate time to administer the program. The possibility that taxpayers may be postponing the filing of tax returns and paying tax until amnesty is available contributed to the choice of November 18, 2002 over possible later dates. The ending date of the period, January 31, 2003, was selected because it allows taxpayers enough time to learn about and to apply for the program and allows for the receipt of revenue gained through the program before the close of the State's 2002-03 fiscal year.

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

10. Compliance schedule: The rule merely sets the beginning and ending dates for the 2002 - 2003 Amnesty Program. The program was established by Chapter 85 of the Laws of 2002. Participation in the program is voluntary and to participate, taxpayers must do what they should have been doing all along (that is, comply with certain tax obligations).