

REGULATORY IMPACT STATEMENT

DEPARTMENT OF TAXATION AND FINANCE

1. Statutory authority: Tax Law, section 171, subdivision First, generally authorizes the Commissioner of Taxation and Finance to promulgate regulations; section 671(a)(1) provides that the method of determining the amounts of New York State personal income tax to be withheld will be prescribed by regulations promulgated by the Commissioner; section 697(a) provides the authority for the Commissioner to make such rules and regulations as are necessary to enforce the personal income tax; Tax Law section 1329(a) and section 15-105 of the Code of the City of Yonkers provide that the City of Yonkers income tax surcharge shall be withheld in the same manner and form as that required for State income tax; section 1332(a) and section 15-108(a) of the Code of the City of Yonkers provide that the income tax surcharge shall be administered and collected by the Commissioner in the same manner as the tax imposed by Article 22 of the Tax Law; Tax Law section 1321(a) authorizes the City of Yonkers to adopt and amend local laws imposing a city income tax surcharge to be administered, collected and distributed by the Commissioner; section 15-111 of the Code of the City of Yonkers provides that the City of Yonkers income tax surcharge shall be a specified percentage of net state tax; Tax Law section 1309 (not subdivided) provides that New York City personal income tax withholding shall be withheld from city residents in the same manner and form as that required by New York State; Tax Law section 1312(a) provides that any personal income tax imposed on New York City residents by New York City 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, except where noted; Administrative Code of New York City, section 11-1771(a) provides that the method of determining the amount of City tax withholding will be prescribed by regulations promulgated by the Commissioner; section 11-1797(a) provides for the Commissioner to make such rules and regulations as are necessary to enforce the provisions of Chapter 17 of Title 11 of the Administrative Code of New York City. Part TT of Chapter 60 the Laws of 2016 effects incremental decreases in the New

York State personal income tax rates beginning in tax year 2018, necessitating changes to the withholding tax tables and methods for both New York State and the City of Yonkers, as the City of Yonkers income tax surcharge is a specified percentage of New York State tax; Part C of Chapter 59 of the Laws of 2017 requires the Commissioner to implement changes in the withholding tax tables and methods relating to changes in the New York City personal income tax effected by Part C.

2. Legislative objectives: The rule repeals and replaces Appendixes 10, 10-A and 10-C, the New York State, City of Yonkers and New York City withholding tables and other methods, respectively, to implement changes required by Part TT of Chapter 60 of the Laws of 2016 and Part C of Chapter 59 of the Laws of 2017. The rule implements revised New York State and City of Yonkers withholding tables and other methods to reflect the incremental decrease in New York State personal income tax rates effected by Part TT of Chapter 60, beginning in tax year 2018. Revised City of Yonkers withholding tables and other methods are necessary because the City of Yonkers income tax surcharge is a specified percentage of New York State tax. The rule also implements changes in the New York City personal income tax effected by Part C of Chapter 59 over a twelve-month period for tax year 2018, rather than the shorter period required for tax year 2017.

3. Needs and benefits: This rule sets forth adjustments to the New York State, City of Yonkers and New York City withholding tables and other methods, applicable to wages and other compensation paid on or after January 1, 2018, reflecting the changes in tax rates contained in Part TT of Chapter 60 of the Laws of 2016 and implementing changes in the New York City personal income tax effected by Part C of Chapter 59 of the Laws of 2017 over a twelve-month period for tax year 2018, rather than the shorter period required for tax year 2017. This rule benefits taxpayers by providing New York State, City of Yonkers and New York City withholding tables and other methods that more accurately reflect the current income tax rates. If this rule is not promulgated, the use of the existing withholding tables would cause some over-withholding for some taxpayers.

4. Costs: (a) Costs to regulated parties for the implementation and continuing compliance with this rule: Since (i) the Tax Law, the Code of the City of Yonkers and the Administrative Code of the City of New York already mandate withholding in amounts that are substantially equivalent to the amounts of New York State, City of Yonkers and New York City personal income tax on residents reasonably estimated to be due for the taxable year, and (ii) this rule conforms Appendixes 10, 10-A and 10-C of Title 20 NYCRR to the rates of the New York State, City of Yonkers and New York City income tax, as necessitated by Chapter 60 of the Laws of 2016 and Chapter 59 of the Laws of 2017, any compliance costs to employers associated with implementing the revised withholding tables and other methods are due to such statutes, and not to this rule.

(b) Costs to this agency, the State and local governments for the implementation and continuation of this rule: Since the need to make amendments to the New York City Personal Income Tax on Residents Regulations and to Appendixes 10, 10-A and 10-C arises due to the statutory changes in the rates of the New York State personal income tax, which affect the City of Yonkers income tax surcharge because it is a percentage of New York State tax, and changes in the New York City personal income tax on residents, there are no costs to this agency or the State and local governments that are due to the promulgation of this rule.

(c) Information and methodology: This analysis is based on a review of the statutory requirements and on discussions among personnel from the Department's Taxpayer Guidance Division, Office of Tax Policy Analysis, Office of Budget and Management Analysis, and Management Analysis and Project Services Bureau.

5. Local government mandates: Local governments, as employers, would be required to implement the new withholding tables and other methods in the same manner and at the same time as any other employer.

6. Paperwork: This rule will not require any new forms or information. The reporting requirements for employers are not changed by this rule. Employers will be notified of the amendments to the tables and other methods and directed to the Department's website for the updated tables and other methods.

7. Duplication: This rule does not duplicate any other requirements.

8. Alternatives: Since Tax Law sections 671(a), 1309 and 1329(a), section 15-105 of the Code of the City of Yonkers, section 11-1771 of the Administrative Code of New York City, Part TT of Chapter 60 of the Laws of 2016 and Chapter 59 of the Laws of 2017 require that withholding tables and other methods be promulgated, there are no viable alternatives to providing such tables and other methods.

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: The required information will be made available to affected employers in sufficient time to implement the revised New York State, City of Yonkers and New York City withholding tables and other methods for wages and other compensation paid on or after January 1, 2018.