

STATEMENT OF REASONED JUSTIFICATION FOR MODIFICATION OF THE RULE

DEPARTMENT OF TAXATION AND FINANCE

The Department of Taxation and Finance submitted for publication in the Rule Review section of the January 5, 2011, State Register summaries of rules that were adopted by the Commissioner of Taxation and Finance in 2001 and 2006, and a notice of the Department's intent to review such rules pursuant to section 207 of the State Administrative Procedure Act. This information was also posted to the Department's Web site (<http://www.tax.ny.gov/rulemaker/regulations/fiveyearrev.htm>) on December 30, 2010. Comments from the public concerning the continuation or modification of these rules were invited until February 22, 2011.

No public comments were received by the Department concerning the 2001 amendments to Part 530 (Amount to be Collected, formerly entitled Tax Rates) of the Sales and Use Taxes Regulations. Part 530 was amended to repeal the tax rates and bracket schedules which indicated the amount of sales tax to be collected for various amounts of sales prices and tax rates, and replace them with standard methodology for rounding the amount of sales tax to be collected to the nearest penny. This rule was adopted by the Commissioner on June 12, 2001, and published in the State Register on June 27, 2001 (I.D. # TAF-17-01-00002-A). The rule was previously reviewed as part of the Department's 2006 Rule Review published in the State Register on January 4, 2006. As a result of that review of the 2001 rule, a Rule Review notice indicating that it would be continued without modification was published in the State Register on October 25, 2006. Subsequent to the 2006 statutory five-year review, amendments to update and simplify Part 530 of the Sales and Use Taxes Regulations by eliminating obsolete and unnecessary tax rates that are set by and pursuant to the Tax Law were adopted on February 14, 2007, and published in the Sate Register on March 7, 2007 (I.D. # TAF-47-06-00012-A). However, certain provisions of the 2001 rule were not amended in 2007 and, therefore, remain subject to review in 2011.

The Department has determined as a result of its 2011 review that the provisions of the rule adopted in 2001 that relate to the tax collection “charts or schedules” are dated and cannot be continued without modification. Certain charts that showed the sales tax to be collected on sales amounts of less than ten dollars are now obsolete. They were discontinued by the Department in 2009 because there is no special rule for small sales amounts, i.e., straight mathematical rounding is applicable to all sales amounts. Therefore, this rule updates section 530.1 of the regulations by eliminating reference to these charts. Other non-controversial technical and clarifying changes in section 530.1 have also been made in this rule.

Not every amendment that was made in 2001 is being amended by this rule; for example, the rule does not affect the standard methodology for rounding the amount of sales tax to be collected to the nearest penny that is prescribed in the regulations. Therefore, these 2001 amendments remain valid and are continued without modification.