

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

1. Effect of rule: The adoption of a rule that provides a definition of a New York reportable transaction and the disclosure requirements for participation in New York reportable transactions is applicable to all businesses, large and small. The amendments will provide guidance concerning the type of transactions that have the potential of tax avoidance, what constitutes participation in such transactions, and a taxpayer's disclosure requirements of such participation. The rule also provides that a "taxpayer" means any person who is required to file a return or report under Articles 9, 9-A, 22, 32, or 33 of Tax Law. We do not have information to estimate the number of these taxpayers that might be small businesses with any degree of certainty. Tax preparers that may be small businesses will need to be aware of the reporting requirements so that they may properly advise their clients of their responsibility to disclose New York reportable transactions. Local governments are not affected.

2. Compliance requirements: Any additional time that is needed by a taxpayer in order to comply with this rule has been factored in the estimate of the compliance costs provided in Part 4 of the "Regulatory Impact Statement" for this rule.

3. Professional services: Any additional professional services needed beyond those already employed by a taxpayer in order to comply with this rule have been factored in the estimate of the compliance costs provided in Part 4 of the "Regulatory Impact Statement" for this rule.

4. Compliance costs: See Part 4 of the "Regulatory Impact Statement" for this rule. There would no variation in costs for small businesses.

5. Economic and Technological Feasibility: This rule does not present economic or technological feasibility concerns on small businesses or local governments.

6. Minimizing adverse impact: The rule does not distinguish between affected small businesses and other types of businesses. The rule places no additional burdens on small businesses or local governments. The New York reportable transactions largely conform to similar federal provisions on reportable transactions. The parallel design will help to minimize the adverse impact on taxpayers since they are already familiar with the requirements of the federal provisions. In addition, the reporting requirements are limited to narrowly circumscribed types of transactions that a taxpayer would have reason to know are designed for State tax avoidance purposes.

7. Small business and local government participation: The following organizations have been given an opportunity to participate in the rule's development: the Association of Towns of New York State; the Deputy Secretary of State for Local Government and Community Services; the Division of Small Business of Empire State Development; the National Federation of Independent Businesses; the New York State Association of Counties; the New York Conference of Mayors; the Small Business Council of the New York State Business Council; and the Retail Council of New York State. In addition, drafts of this rule were sent to the following: the Business Council of New York State, the New York State Bar Association, the Association of Bar of the City of New York, the New York Society of CPAs, the National Conference of CPA Practitioners, and the New York City Department of Finance. No substantive comments were received from any of these parties.