RURAL AREA FLEXIBILITY ANALYSIS

DEPARTMENT OF TAXATION AND FINANCE

1. Types and estimated number of rural areas: The purpose of these amendments is to provide clear guidance for nonresident and part-year resident taxpayers about the computation of New York source income from compensation income, attributable to stock options, restricted stock or stock appreciation rights, received for services performed within New York State during the grant period for the corporation granting such option, stock or right. Some taxpayers affected by these rules may be located in rural areas throughout the State. There are 44 counties throughout this State that are rural areas (having a population of less than 200,000) and 9 more counties having towns that are rural areas (with population densities of 150 or fewer people per square mile).

2. Reporting, recordkeeping and other compliance requirements; and professional services: The allocation method in the rule involves some recordkeeping, but the rule imposes no reporting requirements, forms, or other paperwork upon regulated parties beyond those required by existing law and regulations. The rule sets forth an allocation method for which a record of days worked within and without the state is used for individuals who are already keeping this information.

3. Costs: There is no cost to regulated parties for implementation and continued compliance with the proposed amendments. The impact on the tax liability of a particular taxpayer, which could be positive or negative, will depend largely on the individual circumstances of the nonresident/part-year resident taxpayer and could vary significantly depending on such factors as the amount of compensation income and the number of days worked in New York State during the allocation period. Using the grant-to-vest allocation period for statutory stock options, nonstatutory stock options without a readily ascertainable fair market value at the time of grant, and stock appreciation rights will result in a fair allocation to New York State of the compensation for services performed in New York State and determination of the tax due to New York State pursuant to statute

as, when the option or right is vested, the taxpayer has performed all the service-related conditions necessary to exercise the option.

4. Minimizing adverse impact: There is no adverse impact on rural areas. The regulation does provide some relief to individuals who are impacted with respect to the allocation methods allowed for 2006. In recognition that taxpayers may have relied on a 1995 technical memorandum to compute their estimated tax and/or withholding requirements for 2006, the rule affords taxpayers a choice in this transitional year to use either the new method or the method outlined in the 1995 technical memorandum, so as not to leave taxpayers at a disadvantage.

5. Rural area participation: The following organizations were notified that the Department was in the process of developing this rule and were given an opportunity to participate in its development: the New York Conference of Mayors, the Association of Towns of New York State, the New York State Association of Counties, the Office of Local Government and Community Services of the New York State Department of State, the Small Business Council of the New York State Business Council, the National Federation of Independent Businesses, the Division for Small Business of Empire State Development and the Retail Council of New York State.