

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; section 1329(a) of the Tax Law 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) of the Tax Law 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. Section 1321 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 5 of Part Z-1 of Chapter 57 of the Laws of 2009 requires the Commissioner to adopt rules to implement changes in the withholding tax tables and methods relating to the income tax rate changes made by Part Z-1. City of Yonkers Local Law No. 11-2014 amended section 15-111 of the Code of the City of Yonkers to increase the city income tax surcharge from 15 to 16.75 percent of net state income tax. Chapter 70 of the Laws of 2013 extended the authority contained in Section 1321 to taxable years beginning before 2016. City of Yonkers Local Law No. 6-2013 extended the City of Yonkers resident income tax surcharge and its non-resident earnings tax to taxable years ending on or before December 31, 2015.

2. Legislative objective: New Appendix 10-A of Title 20 NYCRR contains the revised City of Yonkers withholding tables and other methods applicable to wages and other compensation paid on or after January 1,

2015. Appendix 10-A reflects the increase in the City of Yonkers income tax surcharge rate from 15 to 16.75 percent of net state income tax, pursuant to amendments to section 15-111 of the Code of the City of Yonkers made by Local Law No. 11-2014 of the City of Yonkers, which was enacted under the authority of Section 1321 of the Tax Law. Specifically, the amendments to City of Yonkers withholding tax tables reflect the implementation of the 16.75 percent surcharge rate over a twelve-month period, rather than the shorter implementation period required for tax year 2014. Amendments to provisions regarding withholding on supplemental wages are also made to reflect the new rates of withholding.

3. Needs and benefits: This rule sets forth amendments to the City of Yonkers withholding tables and other methods, applicable to wages and other compensation paid on or after January 1, 2015, implementing the new City of Yonkers income tax surcharge rate pursuant to section 15-111 of the Code of the City of Yonkers as amended by City of Yonkers Local Law 11-2014 over a twelve-month period, rather than over the shorter period required for tax year 2014. This rule benefits taxpayers by providing City of Yonkers withholding rates 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 and the Code of the City of Yonkers already mandate withholding in amounts that are substantially equivalent to the amounts of New York State and City of Yonkers personal income tax on residents reasonably estimated to be due for the taxable year, and (ii) this rule merely conforms Appendix 10-A of Title 20 NYCRR to the rates of the City of Yonkers income tax surcharge on residents, 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 City of Yonkers Income Tax Surcharge on Residents

Regulations and to Appendix 10-A arises due to the statutory change in the rate in the City of Yonkers income tax surcharge rate applied over a twelve-month period, 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 Counsel, Office of Tax Policy Analysis Bureau of Tax and Fiscal Studies, 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 changed tables and other methods and directed to the Department's Web site for the new tables and other methods.

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

8. Alternatives: Since sections 671(a) and 1329(a) of the Tax Law, section 15-105 of the Code of the City of Yonkers and Chapter 57 of the Laws of 2009 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 City of Yonkers withholding tables and other methods for wages and other compensation paid on or after January 1, 2015.