

RURAL AREA FLEXIBILITY ANALYSIS

DEPARTMENT OF TAXATION AND FINANCE

1. Types and estimated numbers of rural areas: The rule will affect approximately 140 licensed tobacco products wholesale dealers that are not also distributors, some of which may be located in rural areas as defined by section 102 (10) of the State Administrative Procedure Act. The rule affects all of these wholesale dealers in the same way; it does not distinguish between tobacco products wholesale dealers located in rural, suburban, or metropolitan areas of this State.

2. Reporting, recordkeeping and other compliance requirements; and professional services: The rule will require all tobacco products wholesale dealers that are not also distributors, including those located in rural areas, to file new monthly informational returns with the Department, which will be due on the twentieth day of each month, and will provide information relating to the previous month's activity. See paragraphs 3, 4, and 6 of the Regulatory Impact Statement for detailed compliance requirements. Although not required, an affected wholesale dealer may determine that professional services, in addition to those already employed by a business in preparing its tax returns, may be necessary in order for the wholesale dealer to comply with the additional reporting requirements of the rule.

3. Costs: There are no variations in costs for public or private concerns in rural areas. With regard to affected tobacco products wholesale dealers located in rural areas or elsewhere, during the first month that the rule is in effect it is estimated that it will take each of them one hour and thirty minutes to learn the new requirements of the rule, one hour for recordkeeping, and one hour and thirty minutes to prepare the new returns, for a total of four hours. Assuming that half of these wholesale dealers will prepare the returns themselves at \$15 per hour and half will use an accountant at \$80 per hour, the resulting average cost for each dealer to comply during the first month will be \$47.50 per hour or \$190. After the first month, the cost of

learning the new requirements could be reduced to zero for these wholesale dealers, resulting in compliance costs to each of them of \$119 per month in the second month and thereafter.

4. Minimizing adverse impact: The rule does not distinguish between tobacco products wholesale dealers located in rural areas and those located elsewhere; it does not place any additional burdens on those located in rural areas. The rule helps to level the playing field for all tobacco products wholesale dealers, including those that are located in rural areas, by helping to ensure universal compliance with the tobacco products excise tax. To accomplish this, the rule requires tobacco products wholesale dealers that are not also distributors to file monthly informational returns with the Department. Recognizing the impact of these new reporting requirements, the Department has taken the following steps to minimize any adverse effects. First, the reporting requirements of the new rule are those which are minimally necessary to close the informational gap which exists within the tobacco products distribution chain. (Closing the information gap is the purpose of the rule, as discussed in more detail in the Regulatory Impact Statement.) Second, the Department has made specific changes in the text of the rule in response to concerns presented by the industry. Third, in developing any necessary new forms (returns), the Department has modeled them after existing returns that are already required to be filed by wholesale dealers that are also distributors of tobacco products. In comparison to the existing Distributor of Tobacco Products Tax Return, the new forms actually provide more space and an improved layout for reporting the required information. Finally, allowing for a period of at least 90 days after the rule is effective for the dealers to begin compliance with the new rule provides ample time for their planning and preparation for its implementation.

5. Rural area participation: The following organizations were notified that the Department was in the process of developing this rule and were given the opportunity to participate in its development: the Cigar Association of America, Inc.; the New York State Association of Tobacco and Candy Distributors; 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 State Conference of Mayors and Municipal Officials; the Small Business Council of the New York State Business Council; and the Retail Council of New York State.