

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 relating to administration of the Tax Law. Section 307 of the Civil Practice Law and Rules provides for the designation by a chief executive officer of a State agency of persons authorized to receive service of process on his or her behalf or on behalf of the agency.

2. Legislative objectives: This proposed rule amends 20 NYCRR 2391.3(a) to reduce the number of persons authorized to receive process on behalf of the Commissioner or the Department of Taxation and Finance by eliminating receipt of process at district offices.

3. Needs and benefits: The purpose of this amendment is to make it possible for the Department to streamline departmental operations by discontinuing all walk-in services currently available at district offices, including receipt of process. Currently, district office staff must divert their attention from their ongoing job responsibilities to receive the service, sign all the documents, and then ship the documents to Albany. This process is time-consuming and inefficient for the Department. The Department has eliminated many services available at its district offices, in favor of providing the services online and by telephone and mail. This amendment advances this process by eliminating the option of serving process at the district offices. The Department currently has eight district offices located throughout the State at which process can be served. Approximately 2,650 summonses were served on the Department at district offices in 2012. Parenthetically, the Department notes that most of these summonses were associated with foreclosure actions by banking institutions where the Department was a necessary party under section 1311 of the Real Property Actions and Proceedings Law. The number of these actions fluctuates with changing trends in mortgage foreclosure filings. This amendment continues to provide for personal service on the Department at its principal office, or by first

class or certified mail, pursuant to sections 307 and 312-a of the Civil Practice Law and Rules. Parties will thus continue to have an option of serving the Department without having to travel to its principal office in Albany.

4. Costs:

(a) Costs to regulated persons: It is estimated that any costs to regulated parties attributable to completing service at a post office instead of a district office would be minimal. The cost of serving process by either certified or first class mail is estimated to be less than \$8.00, based upon the highest projected cost for mail weighing up to 13 ounces. This cost may be offset by the savings many regulated parties will realize in spending less time and traveling shorter distances to complete service at the nearest post office rather than a district office.

(b) Costs to the agency and to the State and local governments including this agency: It is estimated that the implementation and continued administration of this rule will not impose any costs upon this agency, New York State, or its local governments. Rather, the rule allows the Department to more efficiently deploy its resources. By eliminating this interruptive, time-consuming, and inefficient process, the Department can better utilize its resources.

(c) Information and methodology: This costs assessment is based on a review of the rule and its effect as described above and discussions among personnel from the Department's Taxpayer Guidance Division, Office of Counsel, Office of Tax Policy Analysis, and Office of Budget and Management Analysis.

5. Local government mandates: The implementation and continued administration of this rule will not impose any mandates upon local governments.

6. Paperwork: This rule will not require any new forms or information.

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

8. Alternatives: The Department considered continuing to permit personal service at its district offices, but determined that eliminating this option would place a minimal burden on regulated parties and allow the

Department to move forward with an initiative to eliminate walk-in services at its district offices. The amendments will apply the first day of a month beginning more than 60 days after the Notice of Adoption is published in the State Register so that parties will have an opportunity to adjust their practices. The Division notified a number of business and industry organizations of this determination, including the New York State Bar Association Tax Section, the Association of the Bar of the City of New York, the New York Society of Certified Public Accountants, and the National Tax Committee for the National Conference of CPA practitioners. No comments were received. Additionally, it is intended that a notice advising taxpayers of the change will be posted on the Division's website and in each of its district offices.

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 amendment shall apply on the first of the month next succeeding 60 days after the Notice of Adoption is published in the State Register.