

STATEMENT OF REASONED JUSTIFICATION FOR MODIFICATION OF THE RULE

DEPARTMENT OF TAXATION AND FINANCE

The Department of Taxation and Finance submitted for publication in the Rule Review section of the January 3, 2007, State Register summaries of rules that were adopted by the Commissioner of Taxation and Finance in 1997 and 2002, and a notice of the Department's intent to review such rules pursuant to section 207 of the State Administrative Procedure Act. This information was also posted to the Department's Web site (<http://www.tax.state.ny.us/rulemaker/regulations/fiveyearrev.htm>) on January 2, 2007. Comments from the public concerning the continuation or modification of these rules were invited until February 20, 2007.

No public comments were received by the Department concerning the 1997 amendments to section 533.3(d), "Annual return," (or to the other technical amendments made at sections 533.3[g] and 561.13[b][1]) of the Sales and Use Taxes Regulations, as published in Subchapter A of Chapter IV of Title 20 NYCRR. These regulations were amended in substance to extend the benefits of annual filing and to change the annual filing period from June-May to March-February. Such amendments were adopted by the Commissioner on June 25, 1997, and published in the State Register on July 16, 1997, (I.D. # TAF-18-97-00008-A).

This notwithstanding, the Department determined as a result of its 2007 review that many of the supporting amendments that were adopted in 1997 were dated and could not be continued without modification. This rule updates section 533.3(d) of the regulations to delete obsolete information – such as references to a discontinued form, an operating division of the Department that no longer exists, and transitional rules applicable to 1998 and 1999. The rule also better reflects the existing policies of the Department, which have evolved over the past ten years with the administration of the very popular and successful annual-filing program. It is noted that approximately 280,000 of the 585,000 taxpayers that file sales and use tax returns file annually, substantially reducing the number of returns required to be filed by taxpayers and, in turn, processed

by this Department. Noncontroversial editorial, clarifying, and technical changes have also been made in this rule. For example, section 533.3(g)(1) is being amended not only to balance the sentence structure, but also to delete a dated and redundant reference to mailing a return, which may now be filed electronically in certain circumstances.

Not every amendment that was made in 1997 is being amended by this rule; for example, the rule does not affect the filing benefits or filing period codified in the regulations. Therefore, such 1997 amendments remain valid and are continued without modification.