

REGULATORY FLEXIBILITY ANALYSIS
FOR SMALL BUSINESSES AND LOCAL GOVERNMENTS
DEPARTMENT OF TAXATION AND FINANCE

1. Effect of rule: Small businesses and local governments, within the meaning of the State Administrative Procedure Act, that are currently subject to the New York State and City of Yonkers withholding requirements will continue to be subject to these requirements. This rule, therefore, should have little or no effect on small businesses and local governments other than the requirement of conforming to the new withholding tables and other methods. All small businesses and local governments that are employers or are otherwise subject to the withholding requirements must comply with the provisions of this rule.

Further, many employers currently utilize bookkeepers, accountants, and professional payroll services to comply with existing withholding requirements. This rule will not encourage or discourage the use of any such services.

2. Compliance requirements: This rule requires small businesses and local governments that are already subject to the New York State and City of Yonkers withholding requirements to continue to deduct and withhold amounts from employees using the revised withholding tables and other methods. The promulgation of this rule will not require small businesses or local governments to submit any new information, forms, or paperwork.

3. Compliance costs: The amendments do not impose any additional program, service, duty, responsibility or cost on small businesses or local governments. Small businesses and local governments currently subject to the New York State and City of Yonkers withholding requirements will continue to be subject to these requirements.

4. Economic and technological feasibility: The rule does not impose any additional costs or technological requirements on small businesses or local governments.

5. Minimizing adverse impact: Tax Law section 671(a)(1) requires that the New York State withholding tables and other methods be promulgated. Section 1332(a) requires that the City of Yonkers withholding of tax on wages shall be administered and collected by the Commissioner of Taxation and Finance in the same manner as the tax imposed by Article 22 of the Tax Law. There are no provisions in the Tax Law that exclude employers that are small businesses or local governments from the withholding requirements.

These amendments implement the incremental tax rate decrease effected by Part TT of Chapter 60 of the Laws of 2016 and the temporary expansion of the top personal income tax brackets and rates effected by Part A of Chapter 59 of the Laws of 2021. The rule also adds a new withholding method to better accommodate the new brackets and rates. The new withholding tables and other methods enable small businesses and local governments to comply with the requirement that employers withhold from employee wages amounts that are substantially equivalent to the amount of New York State and City of Yonkers personal income tax on residents reasonably estimated to be due for the taxable year.

The amendments minimize adverse impact on small businesses and local governments and do not impose any additional costs to the State, regulated parties, or the Department of Taxation and Finance beyond those inherent in the implementation of Tax Law section 671(a)(1), Part TT of Chapter 60 of the Laws of 2016 and Part A of Chapter 59 of the Laws of 2021. Accordingly, no alternatives were considered.

6. Minimizing Adverse Impact: Tax Law sections 671(a) and 1329(a), section 15-105 of the Code of the City of Yonkers, Part TT of Chapter 60 of the Laws of 2016 and Part A of Chapter 59 of the Laws of 2021 require that withholding tables and other methods be promulgated. The rule merely implements these requirements. Providing withholding tables and other methods reflecting the current personal income tax

brackets and rates, together with an additional withholding method to better accommodate the expanded top brackets and rates, assists employers in meeting their statutory obligations.

7. Small business and local government participation: The following organizations are being given an opportunity to participate in the rule's development: the Association of Towns of New York State; the Division of Local Government Services of New York State Department of State; 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 Conference of Mayors and Municipal Officials; the Small Business Council of the New York State Business Council; the Retail Council of New York State; the New York Association of Convenience Stores; the Tax section of the New York State Bar Association; the Association of the Bar of the City of New York; the National Tax Committee for the National Conference of CPA Practitioners; the New York State Society of CPAs; and the Business Council of New York State.