

SUBSTANCE OF THE PROPOSED RULE

DEPARTMENT OF TAXATION AND FINANCE

Sections 671(a)(1) and section 1329(a) of the Tax Law, and section 15-105 of the Code of the City of Yonkers require that employers withhold from employee wages amounts that are substantially equivalent to the amount of New York State personal income tax and City of Yonkers income tax surcharge reasonably estimated to be due for the taxable year. The provisions authorize the Commissioner of Taxation and Finance to provide for withholding of these taxes through regulations promulgated by the Commissioner.

This rule repeals Appendixes 10 and 10-A of Title 20 NYCRR and adds new Appendixes 10 and 10-A to provide new New York State and City of Yonkers withholding tables and other methods. The new tables and other methods amendments implement changes necessitated by Chapter 57 of the Laws of 2009 for tax years beginning after 2011, reflecting the return to the highest personal income tax rate of 6.85 per cent in effect for tax years beginning before 2009. Specifically, the amendments reflect the expiration of the revised tax tables and the tax table benefits recapture provided for in Chapter 57 of the Laws of 2009. The new City of Yonkers withholding tax tables also reflect amendments to the Code of the City of Yonkers enacted by Local Law No. 3-2011 pursuant to Tax Law section 1321 that increased the City of Yonkers income tax surcharge rate from 10 to 15 percent of net state income tax, effective January 1, 2011. Specifically, the amendments to City of Yonkers withholding tax tables reflect the implementation of the 15 percent surcharge rate over a twelve-month period, rather than the shorter implementation period required for tax year 2011. Chapter 255 of the Laws of 2011 extended the authority contained in Section 1321 to taxable years beginning before 2014. City of Yonkers Local Law No. 9-2011 extended the City of Yonkers resident income tax surcharge and its non-resident earnings tax to taxable years ending on or before December 31, 2013.

The rule also amends the New York State and City of Yonkers provisions regarding withholding on supplemental wages to reflect the new rates of withholding.

This rule applies to wages and other compensation subject to withholding paid on or after January 1, 2012.