

SPECIFIC REASONS UNDERLYING THE FINDING OF NECESSITY

DEPARTMENT OF TAXATION AND FINANCE

Chapter 134 of the Laws of 2010 was enacted on June 21, 2010. Part D of Chapter 134, which increased the rate of excise tax on cigarettes, took effect July 1, 2010, and applied to all cigarettes possessed in the state by any person for sale and all cigarettes used in the state by any person on or after July 1, 2010. Part D of Chapter 134 of the Laws of 2010 also imposed a tax on the inventory of cigarettes possessed for sale in New York State and any unaffixed stamps as of the close of business June 30, 2010, based on the increased rate of tax. This rule relates to the implementation of these statutory provisions. This rule also set the commissions allowable to cigarette agents for affixing cigarette stamps relating to the new rate of tax. Without the amendments, the regulation would not provide a rate of commission for affixing cigarette stamps at the new tax rate. In addition, the rule provided procedures relating to the inventory of cigarettes possessed for sale in New York State and any unaffixed stamps required to be taken by all agents, wholesale dealers and retail dealers as of the close of business on June 30, 2010, and the tax due attributable to the increase.

Due to the statutory effective date of these changes, the rule was previously adopted as an emergency measure on June 29, 2010. The June 29, 2010, emergency measure is scheduled to expire on September 26, 2010. The proposal to make the rule permanent was proposed on August 11, 2010, and will not be effective until the date that the Notice of Adoption is published in the *State Register*. The earliest date the Notice of Adoption may be published is November 3, 2010. This emergency readoption is effective on the date that the Notice of Emergency Adoption is filed with the Department of State (September 13, 2010) and will remain in effect for a period of 60 days (November 11, 2010.) Accordingly, this emergency readoption is required to ensure that the New York State commission rates remain effective and licensed cigarette agents receive a commission from New York State for their services.