

## 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; section 671(a)(1) provides that the method of determining the amounts of New York State personal income tax to be withheld will be prescribed by regulations promulgated by the Commissioner; section 697(a) provides the authority for the Commissioner to make such rules and regulations that are necessary to enforce the personal income tax; section 1329(a) of the Tax Law and section 15-105 of the Codes and Ordinances of the City of Yonkers provide that the City of Yonkers Income Tax Surcharge shall be withheld in the same manner and form as that required by sections 671 through 678 of the Tax Law, except where noted; section 1332(a) of the Tax Law and section 15-108(a) of the Codes and Ordinances of the City of Yonkers provide that the City of Yonkers Income Tax Surcharge 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, except where noted; Section 7 of the Model Local Law found in section 1340(c) of the Tax Law and sections 15-121 and 15-130 of the Codes and Ordinances of the City of Yonkers provide with respect to the withholding of the City of Yonkers nonresident earnings tax, that the provisions of Part V of Article 22, as described above, shall have the same force and effect as if they were incorporated into the Codes and Ordinances of the City of Yonkers, except where noted.

2. Legislative objectives: New Appendixes 10 and 10-A of Title 20 NYCRR contain the revised New York State and City of Yonkers withholding tables and other methods applicable to wages and other compensation paid on or after July 1, 2003. The amendments reflect the revision of the tax tables and the tax table benefit recapture in Chapter 62 of the Laws of 2003, and the requirement in the new law that the withholding rates for the remainder of tax year 2003 reflect the full amount of tax liability for tax year 2003 as accurately as practicable. The revised tax tables include two new brackets for taxpayers at the highest levels of

taxable income and an increase in the tax rates for taxpayers whose taxable income reaches these levels. The rule also reflects the increase, to 9.05 percent, for the New York State supplemental withholding rate, and the increase, to .4525 percent, for the City of Yonkers supplemental withholding rate, both to be applied to supplemental wage payments. Although the City of Yonkers Earnings Tax on Nonresidents withholding tables and other methods are included as part of the new Appendix 10-A, no revision was required for these tables and other methods included therein by the Laws of 2003.

3. Needs and benefits: This rule sets forth New York State and City on Yonkers withholding tables and other methods, applicable to wages and other compensation paid on or after July 1, 2003, reflecting the revision of the tax tables and the tax table benefit recapture contained in Chapter 62 of the Laws of 2003. This rule benefits taxpayers by providing New York State and City of Yonkers withholding rates that more accurately reflect the current income tax rates. If this rule was not promulgated, the use of the existing withholding tables would cause some under withholding for some taxpayers.

In order to have these provisions in place by July 1, 2003, the rule was previously adopted as an emergency measure on June 12, 2003. The emergency measure is scheduled to expire on September 9, 2003. The proposal to make the rule permanent was published in the State Register on August 13, 2003, but the permanent rule 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 October 15, 2003. This emergency readoption is necessary to extend the life of these provisions past October 15, 2003, and ensure the continuation of withholding rates that more accurately reflect the current income tax rates.

4. Costs: (a) Costs to regulated parties for the implementation and continuing compliance with this rule: Since (i) the Tax Law and the Codes and Ordinances of the City of Yonkers already mandate withholding in amounts that are substantially equivalent to the amounts of New York State and City of Yonkers personal

income tax on residents, and City of Yonkers nonresident earnings tax reasonably estimated to be due for the taxable year, and (ii) this rule merely conforms Appendixes 10 and 10-A of Title 20 NYCRR to the rates of the New York State income tax, the City of Yonkers income tax surcharge on residents and the City of Yonkers nonresident earnings tax, any compliance costs to employers associated with implementing the revised withholding tables and other methods are due to such statutes, and not to this rule.

(b) Costs to this agency, the State and local governments for the implementation and continuation of this rule: Since the need to revise the New York State withholding tables and other methods, and the City of Yonkers income tax surcharge on residents and earnings taxes on nonresidents withholding tables and other methods, arises due to the statutory change in the rates of New York State personal income tax, there are no costs to this agency or the State and local governments that are due to the promulgation of this rule.

(c) Information and methodology: This analysis is based on a review of the statutory requirements and on discussions among personnel from the Department's Technical Services Bureau, Office of Counsel, Division of Tax Policy Analysis, Management Services Bureau, Operations Support Bureau and Bureau of Fiscal Management.

5. Local government mandates: Local governments, as employers, would be required to implement the new withholding tables and other methods in the same manner and at the same time as any other employer.

6. Paperwork: This rule will not require any new forms or information. The reporting requirements for employers are not changed by this rule. Employers have been sent copies of the new tables and other methods as part of the employer's guide which is routinely revised.

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

8. Alternatives: Since section 671(a) of the Tax Law mandates New York State withholding tables be promulgated, and Sections 1309 and 1329(a) of the Tax Law, Section 7 of the Model Local Law contained in

section 1340(c) of the Tax Law, and section 92-88 of the Codes and Ordinances of the City of Yonkers mandate that City of Yonkers withholding tables and other methods be promulgated, there are no viable alternatives to providing such tables and other methods. The only alternative to promulgating this rule would be to allow the withholding tables adopted as an emergency measure to lapse. That alternative, however, would require that employers withhold at rates that no longer reflect the personal income tax rates of New York State and the City of Yonkers which will be in effect for the 2003 tax year.

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: Affected employers have received the required information in sufficient time to implement the revised New York State and City of Yonkers withholding tables and other methods for wages and other compensation paid on or after July 1, 2003.