

SUBSTANCE OF THE PROPOSED RULE

DEPARTMENT OF TAXATION AND FINANCE

Section 671(a)(1) and section 1329(a) of the Tax Law 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 and adds new Appendixes 10 and 10-A of Title 20 NYCRR, to provide new New York State and City of Yonkers withholding tables and other methods. The amendments to the Appendixes reflect revisions to the New York State and City of Yonkers personal income tax rates and tax table benefit recapture effected by Chapter 56 of the Laws of 2011. The rule also reflects the changes to the New York State and City of Yonkers supplemental withholding tax rates to be applied to supplemental wage payments.

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