

REGULATORY IMPACT STATEMENT

DEPARTMENT OF TAXATION AND FINANCE

1. Statutory authority: Tax Law, section 171, subdivision First, authorizes the Commissioner of Taxation and Finance to promulgate regulations; section 658(g)(1) provides that a tax return preparer that prepares any return or claim for refund, must sign such return or claim for refund in accordance with regulations or instructions prescribed by the Commissioner; section 697(a) provides the authority for the Commissioner to make such rules and regulations as are necessary to enforce the personal income tax.

2. Legislative objectives: This regulation contains amendments which demonstrate the Commissioner's ability to take regulatory action when it is warranted. Regulatory action is necessary to conform the personal income tax regulations to federal regulations regarding signatures of tax return preparers.

3. Needs and benefits: Section 658(g)(1) of the Tax Law provides that a tax return preparer must sign any returns or claims for refund that they prepare in accordance with regulations or instructions prescribed by the Commissioner.

Section 158.12(a) of the Personal Income Tax regulations, as it read previous to the recent emergency amendments to the section, provided that a tax return preparer must manually sign the return or claim for refund and that the use of a facsimile signature stamp or signed gummed label was not acceptable. The section followed the federal regulations before the federal regulations were recently amended to eliminate the manual signature requirement. This proposal will again conform the regulations to the federal regulations and will allow tax return preparers to use the same tax preparation process for New York State returns and save time and labor. These amendments will also help reduce any confusion that might exist about the New York State rule.

This rule was previously adopted as an emergency measure on February 1, 2005. The emergency measure is scheduled to expire on May 1, 2005. This proposal will make the rule permanent, ensuring that tax return preparers can continue to take advantage of the simplified process.

4. Costs: There are no fiscal or nonfiscal costs related to the promulgation of the regulation to the state, this agency, local governments, or regulated parties beyond those imposed by the statute. This analysis is based on a review of the statutory provisions and on discussions among personnel from the Department's Technical Services Bureau, Office of Counsel, Division of Tax Policy Analysis, Bureau of Fiscal Management, and Planning and Management Analysis Bureau.

5. Local government mandates: There are no mandates imposed on local governments by this action.

6. Paperwork: This action does not impose any new paperwork or reporting requirements.

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

8. Alternatives: The only alternative considered was to not amend the regulations and leave in place the requirement that tax return preparers must manually sign returns and claims for refund. However, we have decided that this proposal is preferable in order to obtain the benefits listed in section 3 above.

9. Federal standards: The rule does not exceed any federal minimum standard for the same or similar subject area.

10. Compliance schedule: None