

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 as are necessary to enforce the personal income tax; section 1329(a) of the Tax Law and section 15-105 of the Code 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 for State income tax; section 1332(a) of the Tax Law and section 15-108(a) of the Code of the City of Yonkers provide that the income tax surcharge shall be administered and collected by the Commissioner in the same manner as the tax imposed by Article 22 of the Tax Law. Section 1321 of the Tax Law authorizes the City of Yonkers to adopt and amend local laws imposing a city income tax surcharge to be administered, collected and distributed by the Commissioner. Local Law No. 3-2011 amended section 15-111 of the Code of the City of Yonkers to increase the city income tax surcharge from 10 to 15 percent of net state income tax.

2. Legislative objectives: New Appendix 10-A of Title 20 NYCRR contains the revised City of Yonkers withholding tables and other methods applicable to wages and other compensation paid on or after May 1, 2011. The amendments reflect the increase in the City of Yonkers income tax surcharge from 10 to 15 percent of net state income tax, pursuant to amendments to section 15-111 of the code of the City of Yonkers made by Local Law No. 3-2011 of the City of Yonkers, which was enacted under the authority of Section 1321 of the Tax Law. The rule also reflects this increase in the City of Yonkers supplemental withholding rate to be applied to supplemental wage payments.

3. Needs and benefits: This rule sets forth City of Yonkers withholding tables and other methods, applicable to wages and other compensation paid on or after May 1, 2011, reflecting the increase in the City of Yonkers income tax surcharge from 10 percent of net state income tax to 15 percent of that amount. This rule benefits taxpayers by providing City of Yonkers withholding rates that reflect the current income tax rates. If this rule is not promulgated, the use of the existing withholding tables would cause some under-withholding for some taxpayers and impede the City of Yonkers' revenue.

4. Costs: (a) Costs to regulated parties for the implementation and continuing compliance with this rule: Since (i) the Tax Law and the Code of the City of Yonkers already mandate withholding in amounts that are substantially equivalent to the amount of City of Yonkers income tax surcharge on residents reasonably estimated to be due for the taxable year, and (ii) this rule merely conforms Appendix 10-A of Title 20 NYCRR to the rates of the City of Yonkers income tax surcharge on residents, 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 City of Yonkers income tax surcharge on residents withholding tables and other methods arises due to the statutory change in the rate of the City of Yonkers income tax surcharge, 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 Taxpayer Guidance Division, Office of Counsel, Office of Tax Policy Analysis Bureau of Tax and Fiscal Studies, Office of Budget and Management Analysis, and Management Analysis and Project Services Bureau.

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 will be notified of the changed tables and other methods and directed to the Department's Web site for the new tables and other methods.

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

8. Alternatives: Since sections 671(a) and 1329(a) of the Tax Law and section 15-105 of the Code of the City of Yonkers require that City of Yonkers withholding tables and other methods be promulgated, there are no viable alternatives to providing such tables and other methods.

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 will be receiving the required information in sufficient time to implement the revised City of Yonkers withholding tables and other methods for wages and other compensation paid on or after May 1, 2011.