

STATEMENT OF CONSENSUS RULE MAKING DETERMINATION

DEPARTMENT OF TAXATION AND FINANCE

The Department of Taxation and Finance has determined that no person is likely to object to the adoption of this rule as written because it merely implements a non-discretionary statutory provision enacted on April 12, 2005, that makes permanent the longstanding enforcement provisions set forth in section 1142-A of the Tax Law with respect to certain parking facility operators that provide parking services in New York County (Manhattan). The provisions include the directive to promulgate regulations to impose certain special requirements concerning such parking facility operators. The provisions originally became effective on December 1, 1992, and were to sunset first in 1995 and then again in 1999 and in 2004; however, they were extended in 1995 and 1999 and it was a reasonable expectation that they would again be extended or eventually made permanent.

Subdivision (a) of section 1142-A of the Tax Law, as amended by Part R of Chapter 61 of the Laws of 2005, reads as follows:

Every person required to collect the taxes described in paragraph six of subdivision (c) of section eleven hundred five, subdivision (c) of section eleven hundred seven and paragraph one of subdivision (a) of section twelve hundred twelve-A of this chapter, in a county with a population density in excess of fifty thousand persons per square mile in any city in this state having a population of one million or more, shall be subject to the requirements set forth in this section, except as otherwise provided herein.

Pursuant to the legislative directive, this rule simply amends section 538.2(a) of the Department's Sales and Use Taxes regulations, *Applicability*, to make permanent the longstanding special requirements set forth in Part 538 of such regulations with respect to certain parking facility operators that provide parking services in New York County (Manhattan).