

REGULATORY IMPACT STATEMENT

DEPARTMENT OF TAXATION AND FINANCE

1. Statutory authority: Tax Law sections 171, subd. First, 697(a) and 1096(a) authorize the Commissioner to make such reasonable rules and regulations as may be necessary to administer the provisions of Articles 9-A, 22, 32 and 33 of the Tax Law.

2. Legislative objectives: This proposal fulfills the legislative objectives of the statutory authority by containing amendments which demonstrate the Commissioner's ability to take regulatory action when it is warranted. Amendments are necessary to address aspects of the empire zone wage tax credit, which is contained in Tax Law sections 210.19 (Business Corporation Franchise Tax), 606(k) (New York State Personal Income Tax), 1456(e) (Franchise Tax on Banking Corporations) and 1511(g) (Franchise Taxes on Insurance Corporations). The amendments will remove repetitive and obsolete material from the regulations and codify existing Department policy for the empire zone wage tax credit.

3. Needs and benefits: This proposal has been prepared as part of the Department's continuing regulatory reform effort, which has as one of its objectives, the elimination of regulations that closely parallel the statute or other regulation language. This proposal will eliminate obsolete and statutory material and areas of the Bank Tax, Insurance Tax and Personal Income Tax regulations, relating to the empire zone wage tax credit, which parallel the Corporation Tax provisions. In addition, the

proposed amendments include updates to the regulations to reflect existing Department policy with respect to the credit.

Anticipated benefits from the proposed rule include the following:

(i) The amendments will codify existing policies of the Department regarding the empire zone wage tax credit. The proposed rule will provide taxpayers and tax practitioners with information about these policies. These policies include a policy that a taxpayer is considered to be certified for the Empire Zones Program on the first day of the taxpayer's taxable year during which the taxpayer applies for certification.

Another policy follows from a rule outlined in section 959(a) of the General Municipal Law that allows a business to be certified as an empire zone business, in limited circumstances, when it has shifted operations from an area within the State which is not an empire zone, to an area which is an empire zone. One of these circumstances is where it has been established, after a public hearing, that extraordinary circumstances exist which warrant the relocation of a business, in whole or part, into an empire zone from another municipality and the municipality from which the business is relocating approves of such relocation. The policy relates to the inclusion of jobs as jobs created in a zone, in these limited circumstances, where the jobs have been shifted from outside an empire zone. This policy helps retain jobs in the State and provides for a larger tax credit for these certified businesses.

A third policy codified in the amendments is a transition rule with respect to Chapter 407, Laws of 1999, which made the empire zone equivalent

area wage tax credit allowable for up to five years, an increase from the previous period of two years. This policy allows some empire zone equivalent area certified businesses to claim this credit for up to three additional years.

(ii) The proposed rule will continue the Department's regulatory reform effort by streamlining and reducing regulations. The proposal will eliminate approximately 40 pages of regulations.

(iii) The proposed rule eliminates parallel language regarding the empire zone wage tax credit, making it easier for tax practitioners representing taxpayers under multiple articles of the Tax Law by having a single reference for information.

4. Costs:

(i) Costs to regulated parties: The cost of implementation and continued compliance with the proposed amendments for the regulated parties is expected to be zero. Also, no additional tax liability will result for the regulated parties.

(ii) Costs to the State and its local governments including this agency: It is estimated that the implementation and continued administration of these amendments will not impose any costs upon the State and its local governments, including this agency. There is no revenue impact on the State and its local governments as the proposal eliminates obsolete and duplicative material and clarifies existing Department policies.

(iii) Information and methodology: These conclusions are based on discussions and information received from Office of Tax Policy Analysis, Management Services and Fiscal Management.

5. Local government mandates: None

6. Paperwork: This proposal will not impose additional paperwork requirements.

7. Duplication: This amendment does not result in duplication of other rules or procedures. This amendment eliminates duplicative provisions.

8. Alternatives: No significant alternatives to this proposal were considered other than not making this proposal. It is preferable to make this proposal to attain the benefits listed in (3) above.

9. Federal standards: This amendment does not exceed any minimum standards of the federal government.

10. Compliance schedule: None - the proposed amendments include updates to the regulations to reflect existing Department policies which taxpayers should already be aware of and be in compliance with, where they have chosen to claim the empire zone wage tax credit.