

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 rule as written because it merely updates the administrative procedures concerning taxpayer requests for discretionary adjustments to the method of allocation for purposes of the Business Corporation Franchise Tax and the Franchise Tax on Banking Corporations.

The existing regulations direct taxpayers to make a request with the filing of their report and compute the tax due under the statutory formulas. The Department has not viewed this as an exclusive method of making the request and, in fact, submitting the request with the report is problematic as the request would not be submitted directly to the Department personnel responsible for evaluating the request. The amendments provide that a taxpayer request be made separate and apart from the filing of the report as prescribed by the Department and eliminate the requirement that taxpayers must in every instance submit the computation of tax under the proposed method. The Department will issue further guidance to advise taxpayers where to submit their requests. Additionally, a taxpayer that receives the commissioner's consent prior to the filing of its report would be able to file using the approved methodology. Some technical and clarifying changes have also been made.