

## REGULATORY IMPACT STATEMENT

### DEPARTMENT OF TAXATION AND FINANCE

1. Statutory authority: Tax Law, sections 171, First; 1119(b); 1142(1) and (8); and 1250 (not subdivided) and Part M of Chapter 60 of the Laws of 2004. Section 171, First of this statutory authority provides for the Commissioner of Taxation and Finance to make reasonable rules and regulations, which are consistent with law, that may be necessary for the exercise of the Commissioner's powers and the performance of the Commissioner's duties under the Tax Law. Section 1119(b) of the Tax Law, as amended by Part M of Chapter 60, provides that the Commissioner shall define certain implementing terms by rule or regulation. Sections 1142(1) and (8) of Article 28 and section 1250 of Article 29 of the Tax Law also provide for the adoption of rules and regulations that are appropriate to carry out and jointly administer the New York State and local sales and compensating use taxes imposed by and pursuant to the authority of such Articles.

2. Legislative objectives: The rule is being proposed pursuant to such authority and in accordance with the legislative objectives that the Commissioner equitably administer the provisions of the Tax Law and take regulatory action when required by law, as explained herein, and when otherwise warranted.

3. Needs and benefits: The purpose of this rule is to add a new section 534.10, "Refunds and credits for vessel operators engaged in local transit service," to the Department's regulations to reflect Part M of Chapter 60 of the Laws of 2004. Part M amended section 1119(b) of the Tax Law to provide that the refund and credit provisions currently applicable to omnibus carriers also apply to certain vessel operators. As further described in the rule, in order to qualify for the refund or credit, a vessel operator must provide "local transit service" in this State. The amount of the refund or credit is based on the "local transit service percentage," which is the proportion that the vessel operator's "vessel hours" in local transit service bear to the operator's "total hours operated" in the State. Section 1119(b) requires the Commissioner of Taxation and Finance to define "local

transit service,” “vessel hours,” and “total hours operated” by regulation. In accordance with the legislative intent, these amendments parallel the omnibus rules set out in 20 NYCRR 534.4 to the extent practicable. In addition, technical amendments have also been made to section 534.4 of the regulations to conform to Part M by deleting dated references to the Interstate Commerce Commission, which was abolished a number of years ago, and to delete an erroneous reference to section 525.3 of the regulations, which was repealed in 1999.

4. Costs: There are no costs to regulated parties associated with the implementation of and continued compliance with this rule. Nor are there any costs to this agency, New York State, or its local governments for the implementation and continued administration of the rule. Any costs are attributable to the underlying statutory changes to section 1119(b) of the Tax Law. This analysis is based upon discussions among personnel from the Department's Office of Counsel, Office of Tax Policy Analysis, Planning and Management Analysis Bureau, and Office of Budget and Management Analysis.

5. Local government mandates: The rule imposes no mandates upon any county, city, town, village, school district, fire district, or other special district.

6. Paperwork: The rule imposes no new reporting requirements, forms, or other paperwork upon regulated parties beyond that required by law or existing regulations. Pursuant to section 1119(b) of the Tax Law, a qualified vessel operator that wishes to avail itself of the subject refund or credit must apply to the Department and must maintain satisfactory records to establish that the refund or credit is due.

7. Duplication: There are no relevant rules or other legal requirements of the Federal or State governments that duplicate, overlap, or conflict with this rule.

8. Alternatives: No significant alternatives to the rule were considered by this Department. As indicated, the rule is in accord with section 1119(b), as amended, of the Tax Law and the existing, similar rules found in section 534.4 of the Department's regulations as they pertain to omnibus operators engaged in local transit service.

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

10. Compliance schedule: There is no period of time necessary to enable regulated parties to achieve compliance with this rule. The rule takes effect on the date that the Notice of Emergency Adoption and Proposed Rule Making is filed with the Secretary of State and applies to sales made, services rendered, and uses occurring on and after December 1, 2004, in the manner provided in Part M of Chapter 60 of the Laws of 2004.