

RURAL AREA FLEXIBILITY ANALYSIS

DEPARTMENT OF TAXATION AND FINANCE

1. Types and estimated numbers of rural areas: This rule amends section 105.20(e)(1) of the personal income tax regulations to except dwellings maintained and occupied by full-time undergraduate students pursuing a baccalaureate degree while enrolled at an institution of higher education from the definition of permanent place of abode for purposes of determining residency status. The change will affect some students, depending upon their particular circumstances. Some of these students may be enrolled at institutions of higher education in rural areas, and maintaining places of abode in those areas. There are 44 counties in the State that are rural areas (having a population of less than 200,000) and 9 more counties having towns that are rural areas (with population densities of 150 or fewer people per square mile).

2. Reporting, recordkeeping and other compliance requirements; and professional services: The rule may affect the reporting requirements on certain students enrolled at institutions of higher education who maintain and occupy a permanent place of abode within the state while pursuing a baccalaureate degree. As a result of this rule, certain students living in rural areas may have to file Form IT-203, New York State Nonresident and Part Year Resident income tax return, rather than Form IT-201, Resident Income Tax return. Others will no longer need to file a New York State income tax return.

3. Costs: These changes will place no additional burdens on rural areas. The impact on tax liability depends on the particular circumstances of the taxpayer. Some undergraduate students currently taxed as residents as a result of the 2008 amendments will now be considered nonresidents. Treatment as a nonresident could result in a reduction of tax liability because unearned income would generally not be considered New York source income. On the other hand, some who are currently eligible to claim the New York State college tuition credit as residents will not be able to do so because the credit is not available to nonresidents.

Additionally, some students currently required to file a New York State income tax return will no longer need to do so.

4. Minimizing adverse impact: The rule does not adversely impact rural areas. It will eliminate the need to make fine distinctions among students based on the style of their housing. The rule will provide student taxpayers with clear, objective, and easily applied rules for assessing their residency status for New York State personal income tax purposes.

5. Rural area participation: The following organizations are being given an opportunity to participate in the rule's development: the Association of Towns of New York State; the Division of Local Government Services of New York State Department of State; the Division of Small Business of Empire State Development; the National Federation of Independent Businesses; the New York State Association of Counties; the New York Conference of Mayors and Municipal Officials; the Small Business Council of the New York State Business Council; the Retail Council of New York State; and the New York Association of Convenience Stores.