RURAL AREA FLEXIBILITY ANALYSIS

DEPARTMENT OF TAXATION AND FINANCE

1. Types and estimated numbers of rural areas: As explained in the Regulatory Flexibility Analysis for Small Businesses and Local Governments filed with this rule, there are approximately 119,500 exempt organizations registered with this department, but the number directly affected by the rule is not quantifiable with any degree of certainty. However, based on the National Center for Charitable Statistics ("NCCS") data referred to in the accompanying Regulatory Impact Statement and discussed further below, it is reasonable to assume that some of these organizations are located in rural areas as defined by section 102 (10) of the State Administrative Procedure Act. There are 44 counties in New York 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.) This rule affects all section 1116(a)(4), (5), and (6) exempt organizations in the same manner; that is, it does not distinguish between exempt organizations located in rural, suburban, or metropolitan areas of this state.

2. Reporting, recordkeeping, and other compliance requirements; and professional services: The rule reflects the statutory amendments enacted by Part KK-1 of Chapter 57 of the Laws of 2008 ("Part KK-1") and provides related rules concerning other taxable sales made by section 1116(a)(4), (5), and (6) exempt organizations. As noted in the accompanying statements, every person required to collect sales tax must register for sales tax purposes, keep records, file returns, remit taxes, and otherwise comply with all of the obligations of a person required to collect sales tax that are imposed under the Tax Law and under the existing regulations. This includes affected exempt organizations located in rural areas. Depending upon their own expertise and on the extent of their taxable sales, these organizations may elect to employ professional services, such as bookkeepers and accountants, in meeting their compliance requirements.

3. Costs: Section 1116(a)(4), (5), and (6) exempt organizations that are located in rural areas may incur some of the limited costs to regulated parties that are discussed in detail in the Regulatory Impact Statement. For example, based on the previously mentioned NCCS data, approximately 12.7% of total revenue comes from rural areas. Using the same methodology as used in the impact statement, the department estimates that of the $2.6 million increase in state and local sales tax revenue attributable to this rule, approximately $212,000 comes from exempt organizations located in rural areas. Such organizations would incur costs associated with collecting this tax from their customers and remitting it to the department. There are no variations in costs based on whether the public or private entities are in rural areas.

4. Minimizing adverse impact: In developing this rule, the department was aware of the need to consider approaches to implement Part KK-1 while minimizing any adverse impacts on public and private sector interests in rural areas. However, as explained with respect to small businesses, the legislation requires all section 1116(a)(4), (5), and (6) exempt organizations to collect sales tax on certain taxable sales. Part KK-1 does not distinguish between exempt organizations that are located in rural areas and any other section 1116(a)(4), (5), and (6) exempt organizations. The rule likewise treats all of these exempt organizations in the same manner, regardless of where they might be located in the state. Consequently, different compliance and reporting requirements or timetables that take into account the resources available to rural areas are not practical approaches for this rule. In addition, as previously mentioned, the nature of the rule and the applicable provisions of law do not lend themselves to the use of performance or outcome standards nor do they allow for any discretionary exemptions.

5. Rural area participation: The following organizations were notified that the department was in the process of developing this rule and were given the opportunity to participate in its development: the Association of Towns of New York State; the Division of Local Government Services of the New York State Department of State; the Division for Small Business of Empire State Development; the National Federation of Independent

Businesses; the New York State Association of Counties; the New York State Conference of Mayors and Municipal Officials; the Small Business Council of the New York State Business Council; the Retail Council of New York State; the New York State Association of Convenience Stores; the New York State Auctioneers Association, Inc.; the United Way of New York; the Statewide SEFA Council; the National Council of Nonprofit Associations; the Greater New York Hospital Association; the Healthcare Association of New York State; the Medical Society of the State of New York; the New York Health Information Management Association; the New York State School Boards Association; the New York State Parent-Teacher Association; the Nonprofit Coordinating Committee of New York; the Charities Bureau of the New York State Department of Law; the Department of New York Veterans of Foreign Wars; and the American Legion's Department of New York. As part of our outreach, we invited most of these organizations to extend our invitation for input to other exempt organizations that may be affected by this rule. Such organizations include public and private interests in rural areas. No comments were received concerning the rule.