

RURAL AREA FLEXIBILITY ANALYSIS

DEPARTMENT OF TAXATION AND FINANCE

1. Types and estimated numbers of rural areas: Every employer, including any public or private employer located in a rural area as defined in section 102(10) of the State Administrative Procedure Act, that is currently subject to the City of Yonkers withholding requirements will continue to be subject to such requirements and will be required to comply with the provisions of this rule. There are 44 counties throughout this 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: This rule requires employers that are already subject to the City of Yonkers withholding requirements to continue to deduct and withhold amounts from employees using the revised withholding tables and other methods. The promulgation of this rule will not require employers to submit any new information, forms or other paperwork.

Further, many employers currently utilize bookkeepers, accountants, and professional payroll services in order to comply with existing withholding requirements. This rule will not encourage or discourage the use of any such services.

3. Costs: Employers are already subject to the City of Yonkers withholding requirements. Therefore, employers are accustomed to withholding revisions, including minor programming changes for federal, state, City of New York, and City of Yonkers purposes. As such, these City of Yonkers changes should place no additional burdens on employers located in rural areas. See, also, section 4(a) of the Regulatory Impact Statement for this rule.

4. Minimizing adverse impact: Section 671(a)(1) of the Tax Law requires that the New York State withholding tables and other methods be promulgated. Section 1329(a) of the Tax Law requires that the City of

Yonkers withholding of tax on wages shall be administered and collected by the Commissioner of Taxation and Finance in the same manner as the tax imposed by Article 22 of the Tax Law. There are no provisions in the Tax Law that exclude employers located in rural areas from the withholding requirements.

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; the New York Association of Convenience Stores; the Tax section of the New York State Bar Association; the Association of the Bar of the City of New York; the National Tax Committee for the National Conference of CPA Practitioners; the New York State Society of CPAs; and the Business Council of New York State.

6. Initial review of the rule, pursuant to SAPA 207, as amended by L. 2012, ch. 462; the proposed initial review period for this rule is 5 years after the year in which it is adopted, rather than 3 years. The justification for a five year review period is that the proposed amendment is necessary to implement the increase in the City of Yonkers income tax surcharge rate from 15 to 16.75 percent of net state income tax, pursuant to amendments to section 15-111 of the Code of the City of Yonkers made by Local Law No. 11-2014 of the City of Yonkers, which was enacted under the authority of Section 1321 of the Tax Law. New Appendix 10-A and the amendments to the provisions relating to withholding on supplemental wages merely reflect the rate increase enacted by the City of Yonkers. The substantive provisions of the proposed amendment cannot be repealed or modified unless there is a further change to either Yonkers' local law or the New York State Tax Law, affecting Yonkers' rate of tax or the New York State Tax income tax rates on which it is based. Accordingly, there is no

need for a shorter review period. The Department invites public comment during the public comment period for the rule.