RURAL AREA FLEXIBILITY ANALYSIS

DEPARTMENT OF TAXATION AND FINANCE

1. Types and estimated numbers of rural areas: The purpose of these amendments is to provide that repurchase agreements and securities lending agreements held by registered brokers or dealers are not investment capital so that the income and expenses from these agreements must be included in the computation of business income for such taxpayers. These businesses are concentrated in New York City. However, some taxpayers affected by these rules may have offices in rural areas throughout the State. 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 fewer people per square mile).

2. Reporting, recordkeeping and other compliance requirements; and professional services: No additional time is needed in order for registered brokers and dealers in rural areas to comply with this rule. Entities in rural areas will not require additional professional services to comply with this rule.

3. Costs: The rule does not impose any new reporting, recordkeeping or other compliance costs on regulated parties. The change in interpretation of the statute may have an impact on the tax liability of particular taxpayers. This is a function of what the Department believes is a better interpretation of the statutory provisions and the particular circumstances of the taxpayer. The Department has determined that ultimately there is no measurable tax liability impact on an industry-wide basis between the interpretation of the current rule, with a proper matching of expenses to income, and this rule. The rule would facilitate voluntary compliance by providing a better interpretation of the business and investment capital provisions of the statute. This would lead to the appropriate matching of business income and expenses as well as investment income and expenses. There are no variations in costs for public or private concerns in rural areas.

4. Minimizing adverse impact: The rule does not distinguish between rural areas and non-rural areas as there is no distinction in the statute being interpreted. There is no adverse impact on public and private entities in rural areas.

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; and the Retail Council of New York State. In addition, drafts of the rule were sent to the following: the Business Council of New York State, the New York State Bar Association, the Association of the Bar of the City of New York, the New York State Society of CPAs and the Securities Industry and Financial Markets Association (SIFMA).