

REGULATORY IMPACT STATEMENT

DEPARTMENT OF TAXATION AND FINANCE

1. Statutory authority: Tax Law, section 171, subdivision First, generally authorizes the Commissioner of Taxation and Finance to promulgate regulations; section 671(a)(1) provides that the method of determining the amounts of New York State personal income tax to be withheld will be prescribed by regulations promulgated by the Commissioner; section 697(a) provides the authority for the Commissioner to make such rules and regulations that are necessary to enforce the personal income tax. Section 1329(a) of the Tax Law and section 15-105 of the Codes and Ordinances of the City of Yonkers provide that the City of Yonkers Income Tax Surcharge shall be withheld in the same manner and form as that required by sections 671 through 678 of the Tax Law, except where noted; section 1332(a) of the Tax Law and section 15-108(a) of the Codes and Ordinances of the City of Yonkers provide that the City of Yonkers Income Tax Surcharge 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, except where noted; Section 7 of the Model Local Law found in section 1340(c) of the Tax Law and sections 15-121 and 15-130 of the Codes and Ordinances of the City of Yonkers provide with respect to the withholding of the City of Yonkers nonresident earnings tax, that the provisions of Part V of Article 22, as described above, shall have the same force and effect as if they were incorporated into the Codes and Ordinances of the City of Yonkers, except where noted. Section 1309(not subdivided) of the Tax Law provides that City of New York personal income tax withholding shall be withheld from city residents in the same manner and form as that required by New York State; section 1312(a) of the Tax Law provides that any personal income tax imposed on New York City residents by the City of New York shall be administered and collected by the Tax Commissioner in the same manner as the tax imposed by Article 22 of the Tax Law, except where noted; Administrative Code of the City of New York, section 11-1771(a) provides that the method of determining the amount of City tax withholding will be prescribed by tax regulations promulgated by the Commissioner; section 11-1797(a) provides for the Commissioner to make such

rules and regulations that are necessary to enforce the provisions of the Administrative Code of the City of New York; section 11-1909 (not subdivided) and section 11-1943 (not subdivided) provide that after January 1, 1976 the laws found in Parts V and VI of Article 22 of the Tax Law, which contain sections 671 through 699 of the Tax Law and which pertain to the withholding of tax and the procedural and administrative aspects of the state tax law, shall have the same force and effect as if they were incorporated into the Administrative Code of the City of New York, except where noted.

2. Legislative objectives: New Appendixes 10, 10-A, and 10-C of Title 20 NYCRR contain the revised New York State, City of Yonkers and City of New York withholding tables and other methods applicable to wages and other compensation paid on or after January 1, 2005. The amendments reflect the revision of the tax tables and the tax table benefit recapture in Chapters 62 and 63 of the Laws of 2003 and a New York City local law. Although the City of Yonkers Earnings Tax on Nonresidents withholding tables and other methods are included as part of the new Appendix 10-A, no revision was required for these tables and other methods included therein by the Laws of 2003.

3. Needs and benefits: This rule sets forth New York State, City of Yonkers and City of New York withholding tables and other methods, applicable to wages and other compensation paid on or after January 1, 2005, reflecting the revision of the tax tables and the tax table benefit recapture contained in Chapters 62 and 63 of the Laws of 2003 and a New York City local law. This rule benefits taxpayers by providing New York State, City of Yonkers and City of New York withholding rates that more accurately reflect the current income tax rates. If this rule was not promulgated, the use of the existing withholding tables would cause some over withholding for some taxpayers.

4. Costs: (a) Costs to regulated parties for the implementation and continuing compliance with this rule: Since (i) the Tax Law, the Codes and Ordinances of the City of Yonkers, and the Administrative Code of the

City of New York already mandate withholding in amounts that are substantially equivalent to the amounts of New York State, City of Yonkers and City of New York personal income tax on residents, and City of Yonkers nonresident earnings tax reasonably estimated to be due for the taxable year, and (ii) this rule merely conforms Appendixes 10, 10-A, and 10-C of Title 20 NYCRR to the rates of the New York State income tax, the City of Yonkers income tax surcharge on residents and the City of Yonkers nonresident earnings tax, and the City of New York personal income tax on residents, any compliance costs to employers associated with implementing the revised withholding tables and other methods are due to such statutes, and not to this rule.

(b) Costs to this agency, the State and local governments for the implementation and continuation of this rule: Since the need to revise the New York State withholding tables and other methods, the City of Yonkers income tax surcharge on residents and earnings tax on nonresidents withholding tables and other methods, and the City of New York personal income tax on residents withholding tables and other methods arises due to the statutory change in the rates of New York State and City of New York personal income tax, there are no costs to this agency or the State and local governments that are due to the promulgation of this rule.

(c) Information and methodology: This analysis is based on a review of the statutory requirements and on discussions among personnel from the Department's Technical Services Bureau, Office of Counsel, Division of Tax Policy Analysis, Management Services Bureau, Operations Support Bureau and Bureau of Fiscal Management.

5. Local government mandates: Local governments, as employers, would be required to implement the new withholding tables and other methods in the same manner and at the same time as any other employer.

6. Paperwork: This rule will not require any new forms or information. The reporting requirements for employers are not changed by this rule. Employers will be sent copies of the new tables and other methods as part of the employer's guide which is routinely revised.

7. Duplication: This rule does not duplicate any other requirements.

8. Alternatives: Since the Tax Law, the Codes and Ordinances of the City of Yonkers, and the Administrative Code of the City of New York mandate that New York State, City of Yonkers and City of New York withholding tables and other methods be promulgated (see Section 1 of this statement), there are no viable alternatives to providing such tables and other methods. The only alternative to promulgating this rule would be to allow the current withholding tables to remain in effect. This alternative, however, would require that employers withhold at rates that do not reflect the personal income tax rates of New York State, City of Yonkers and City of New York which will be in effect for the 2005 tax year.

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

10. Compliance schedule: Affected employers will be receiving the required information in sufficient time to implement the revised New York State, City of Yonkers and City of New York withholding tables and other methods for wages and other compensation paid on or after January 1, 2005.