

STATEMENT IN LIEU OF A REGULATORY FLEXIBILITY ANALYSIS FOR  
SMALL BUSINESSES AND LOCAL GOVERNMENTS  
DEPARTMENT OF TAXATION AND FINANCE

A Regulatory Flexibility Analysis for Small Businesses and Local Governments is not being submitted with this rule because it will not impose any adverse economic impact or any additional reporting, recordkeeping, or other compliance requirements on small businesses or local governments.

The purpose of the rule is to add a new subdivision (d) to section 9-1.2 of Part 9 of 20 NYCRR, to adjust the rate of the metropolitan transportation business tax surcharge for taxable years beginning on or after January 1, 2018 and before January 1, 2019, as required by Tax Law section 209-B(1)(f).

Tax Law section 209-B generally imposes a tax surcharge on every corporation subject to section 209 of the Tax Law, other than a New York S corporation, for the privilege of exercising the corporation's corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in a corporate or organized capacity, or of maintaining an office, or of deriving receipts from activity in the metropolitan commuter transportation district, for all or any part of the corporation's taxable year.

The Commissioner is required, pursuant to Tax Law section 209-B(1)(f), to annually adjust the rate of the metropolitan transportation business tax surcharge for taxable years beginning on or after January 1, 2016. The rate is to be adjusted as necessary to ensure that the receipts attributable to the surcharge will meet and not exceed the financial projections for each state fiscal year, as reflected in the enacted budget for that fiscal year.

Subdivision (d) of section 9-1.2 of Part 9 complies with the mandate of Tax Law section 209-B(1)(f), setting forth the rate for taxable years beginning on or after January 1, 2018 and before January 1, 2019, and follows subdivision (c), which set the rate for taxable years beginning on or after January 1, 2017 and before January 1, 2018. As required by Tax Law section 209-B(1)(f), the First Deputy Commissioner of Taxation and

Finance, being duly authorized to act due to the vacancy in the office of the Commissioner, using the state fiscal year 2018 – 2019 fiscal projections, has determined that the metropolitan transportation business tax surcharge rate will be 28.6 percent of the tax imposed under section 209 of the Tax Law for taxable years beginning on or after January 1, 2018 and before January 1, 2019.