

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 1304-B provides that the City of New York may impose an additional tax on city taxable income; section 1309(not subdivided) 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) 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 Appendix 10-C of Title 20 NYCRR contains the revised City of New York withholding tables and other methods applicable to wages and other compensation paid on and after June 1, 2002. The amendments reflect the City of New York's decision not to extend the reduction in the additional tax on city taxable income in effect for the 2001 tax year to the 2002 tax year. (The City of New York has not enacted a local law to provide for this reduction for 2002, as it is authorized to do under section 1304-B of the Tax Law.) Therefore, the rates for the additional tax on city taxable income have reverted to the maximum percentage allowed by the law and the withholding tables and other methods have been adjusted accordingly. The rule also reflects the increase, to 4.00 percent, of the City of New York tax rate to be applied to supplemental wage payments.

3. Needs and benefits: This rule sets forth City of New York withholding tables and other methods, applicable to wages and other compensation paid on and after June 1, 2002, reflecting the City of New York's decision to let the rates for the additional tax on city taxable

income revert to the maximum allowed by law. This rule benefits taxpayers by providing 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 under 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 and the Administrative Code of the City of New York already mandate withholding in amounts that are substantially equivalent to the amounts of City of New York personal income tax on residents reasonably estimated to be due for the taxable year, and (ii) this rule merely conforms Appendix 10-C of Title 20 NYCRR to the rates of 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 City of New York personal income tax on residents withholding tables and other methods arises due to the statutory change in the rates of City of New York personal income tax on residents, 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: Any local governments, as employers, maintaining an office or transacting business within New York City, who have a City of New York resident as an employee, 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: Since withholding for the City of New York is in addition to federal and State requirements for withholding, this rule does not duplicate any other requirements.

8. Alternatives: Since section 11-1771(a) of the Administrative Code of the City of New York mandates that City of New York withholding tables and other methods be promulgated, there are no viable

alternatives to providing such tables and other methods. Therefore, the only alternative to promulgating this rule would be to allow the existing tables to remain in effect. That alternative, however, would require that employers continue to withhold at rates that no longer reflect the personal income tax rates of the City of New York which will be in effect for the 2002 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 City of New York withholding tables and other methods for wages and other compensation paid on and after June 1, 2002.