

RULE REVIEW

Racing and Wagering Board

Review of existing rules pursuant to State Administrative Procedure Act Section 207.

Section 207 of the State Administrative Procedure Act (SAPA) requires that each agency review, after five years and thereafter at five year intervals, each of its rules which it adopted on or after January 1, 1997 to determine whether such rules should be modified or continued without modification.

Accordingly, the New York State Racing and Wagering Board submits the following rules that were adopted during calendar year 2000 that the Board reviewed and determined should be continued without modification. All section and part references are to Title 9E of the New York Code of Rules and Regulations.

1. Rule I.D. No: RWB-47-99-00001-A
Section 5608.4 of Title 9 N.Y.C.R.R.

Description: This rule amends the bell jar ticket regulations by allowing manufacturers of bell jar tickets to submit, for Board approval, artist's renderings of belljar tickets, payout cards and flares.

Analysis of Need for the Rule: This rule amendment removes an inconsistency between rule 5608.4 and Section 195-n(1) of the General Municipal Law ("GML"). The GML § 195-(n)(1) allows manufacturers of bell jar tickets to submit samples or artists renderings of proposed bell jar tickets, payout cards and flares for Board review. The pre-amended 5608.4 required printed samples be submitted to the Board. Adoption of the amendment makes the two consistent.

Legal Basis for the Rule: General Municipal Law, Art. 9-A, sections 186 and 188-a(1).

Assessment of Public Comment: No comments were received.

2. Rule I.D. No: RWB-15-00-00005-A

Section 5600.1, 5602.1, 5603.7, 5607.13, 5611.1, 5611.2, 5623.1, 5814.6, 5815.11 and Parts 5608, 5620, 5622, 5624 and 5820.

Description: Operation, licensing, conduct and enforcement of games of chance and bingo.

Analysis of Need for the Rule: To ensure compliance and consistency with the recent legislative changes in the General Municipal Law, Arts. 9-A and 14-H, as well as in furtherance of the operation, licensing, conduct and enforcement of the Games of Chance and Bingo.

Legal Basis for the Rule: General Municipal Law, art. 9-A, sections 186 and 188-a; Executive Law, Art. 19-B, Section 435.

Assessment of Public Comment: No comments were received.

As part of the Department's 2005 review of regulations that were adopted during 2000, it has reviewed 20 NYCRR, sections 75.1(f) (Agent's cigarette tax returns) and 75.5(a)(1) (Records to be kept by agents and others). These regulations were amended to implement requirements imposed upon the Department of Taxation and Finance by provisions of the then newly enacted Tobacco Escrow Funds Act (Public Health Law, Article 13-G). The enactment of this legislation was necessary so that New York State could meet certain obligations pursuant to the "Master Settlement Agreement" (entered into on November 23, 1998, by leading United States tobacco product manufacturers and forty-six states, including New York), thereby ensuring that New York would receive its apportioned amount of certain payments made pursuant to the Agreement by the tobacco product manufacturers participating in the Agreement. The Act required this Department to promulgate regulations necessary to ascertain the amounts of State excise taxes paid on the cigarettes sold within the State of tobacco product manufacturers each year. The statutory authority for the rule is contained in Tax Law sections 171, subd. First, and 475 (not subdivided); Public Health Law section 1399-oo, subd. (10); and L. 1999, ch. 536.

These regulations are being continued without modification because there have been no statutory amendments or changes in policy to warrant any modification of the regulations.

A summary of the regulations was published in the Rule Review section of the January 5, 2005, issue of the State Register. The 2005 Regulatory Agenda was also posted to the Department's Web site (http://www.tax.state.ny.us/pubs_and_bulls/regulations/regulatory_agenda.htm) on December 23, 2004. The Department did not receive any public comments regarding these regulations.

For further information contact: Diane M. Ohanian, Department of Taxation and Finance, Technical Services Division, Bldg. 9, State Campus, Albany, New York 12227, (518) 457-2254

Department of Taxation and Finance

Pursuant to section 207.4 of the State Administrative Procedure Act, the Department of Taxation and Finance hereby gives notice of the following: