

RULE REVIEW

Department of Taxation and Finance

2015 Rule Review

Pursuant to section 207 of the State Administrative Procedure Act (SAPA) the Department of Taxation and Finance intends to review the following rules during 2015, and invites written comments on the continuation or modification of these rules in order to assist the Department in the required review. We will consider comments that are received by March 9, 2015. Any questions concerning the items listed in this rule review or comments regarding the continuation of the rules being reviewed should be referred to: Office of Counsel, Department of Taxation and Finance, W.A. Harriman Campus, Building 9, Room 200, Albany, New York 12227. Telephone: (518) 530-4153, Email address: tax.regulations@tax.ny.gov.

RULES ADOPTED IN 2010

1. TAF-49-09-00002-A Informational Returns for Wholesale Dealers of Cigarettes and Tobacco Products.

This rule amended sections 75.2 and 90.1 of 20 NYCRR regarding informational returns for cigarette and tobacco products wholesale dealers.

Analysis of the need for the rule: The rule requires the filing of quarterly informational returns for cigarette and tobacco products wholesale dealers to enable the Department to better ensure compliance with the provisions of Articles 20 and 28 of the Tax Law.

Legal basis for the rule: Tax Law, sections 171, subd. First; 475 (not subdivided); and 1142(12).

2. TAF-27-10-000013-A Sales of Cigarettes on Indian Reservations.

The rule adds sections 74.6 and 74.7 to Title 20 NYCRR, implementing certain statutory provisions concerning sales of cigarettes on Indian reservations.

Analysis of the need for the rule: The rule concerns the collection of taxes on sales of cigarettes made on New York State Indian reservations as required by sections 471 and 471-e of the Tax Law, and provides procedures to be followed by New York State licensed cigarette stamping agents for the certification process required by section 471 of the Tax Law.

Legal basis for the rule: Tax Law, sections 171, subd. First; 471(1), (4), and (5); 471-e; 475(not subdivided); and L.2010, ch 134, part D.

3. TAF-35-10-00003-A Cigarette Tax.

This rule amended sections 70.1 and 80.2 and Parts 74 and 82, repealed section 79.2, and added new section 79.2 to Title 20 NYCRR, to implement statutory changes relating to the excise tax on cigarettes.

Analysis of the need for the rule: The rule implements statutory provisions increasing the rate of the excise tax on cigarettes from \$2.75 for each 20 cigarettes, or fraction thereof, to \$4.35, effective July 1, 2010. It also imposes a tax on the inventory of cigarettes possessed for sale in New York State and any unaffixed stamps as of the close of business on June 30, 2010, based on the increased rate of cigarette excise tax, and sets the rate of commissions allowable to agents as compensation for affixing cigarette stamps relating to the new rate of tax.

Legal basis for the rule: Tax Law, sections 171, subd. First; 472(1); 475(not subdivided); and L. 2010, ch 134, part D.

4. RPS-39-09-00025-A Reimbursement of Training Expenses.

This rule amended former Part 188 of Title 9 NYCRR to revise the continuing education requirements regarding reimbursement.

Analysis of the need for the rule: The rule assured that training reimbursement funds were managed effectively in a time of fiscal crisis. The notice of proposed rulemaking did not include a regulatory flexibility analysis, a rural area flexibility analysis, or a job impact statement.

Legal basis for the rule: Real Property Tax Law, sections 202(1)(l); 318(4); and 1530(3)(f).

5. TAF-39-10-00002-A City of New York Withholding Tables and Other Methods Applicable January 1, 2011.

Analysis of the need for the rule: the rule provided current City of New York withholding tables and other methods.

Legal basis for the rule: Tax Law, sections 171, subdivision First; 671(a); 1309 (not subdivided); and 1312(a), the Administrative Code of the City of New York, sections 11-1771(a) and 11-1791(a); and L. 2010, ch. 57, Part EE, section 4.

RULES ADOPTED IN 2005

1. TAF-07-05-00009-A Signature Requirements Applicable to Tax Return Preparers.

This rule amended sections 153.6 and 158.12 of Title 20 NYCRR, concerning signature requirements applicable to tax return preparers.

Analysis of the need for the rule: The rule removed the mandatory signature requirement for tax return preparers from the personal income tax regulations, conforming New York State requirements to the corresponding federal requirements.

Legal basis for the rule: Tax Law sections 171, subd. First; 658(g); and 697(a).

2. TAF-50-04-00004-A Refunds and Credits for Vessel Operators Engaged in Local Transit Service.

This rule amended section 534.4(a) and (b) and added new section 534.10 to Title 20 NYCRR to implement statutory changes making refund and credit provisions applicable to omnibus carriers also apply to certain vessel operators.

Analysis of the need for the rule: The rule made permanent the emergency measure that implemented Part M of Chapter 60 of the Laws of 2004, which provides that certain refunds and credits of sales and compensating use taxes are allowed for vessel operators engaged in local transit service. Part M required the Commissioner of Taxation and Finance to define the implementing terms "local transit service," "vessel hours," and "total hours operated" by rule.

Legal basis for the rule: Tax Law sections 171, subd. First; 1119(b); 1142(1) and (8); 1250(not subdivided); and L. 2004, ch 60, part M.

3. RPS-14-00003-A Notice of Public Condemnation Hearings.

This rule amended former Part 185 of Title 9 NYCRR to establish standards for ascertaining and reporting assessment record billing owner (ARBO) information in connection with public condemnation hearings in accordance with Chapter 450 of the Laws of 2004.

Analysis of the need for the rule: The rule facilitated the implementation of this ARBO notification requirement by providing condemnors and assessment officials with greater clarity as to how to identify ARBOs, protecting the interests of affected property owners to the greatest extent practicable, and enabling worthwhile public projects to go forward after full public consideration of their merits.

The notice of proposed rulemaking did not include a regulatory flexibility analysis, a rural area flexibility analysis, or a job impact statement.

Legal basis for the rule: Real Property Tax Law, section 202(1)(q), as added by L.2004, ch 450.

4. RPS-14-05-00004-A State Reimbursement of Expenses of Local Officials in Satisfying Training Requirements.

This rule amended former section 188-2.9(b)(4) of Title 9 of NYCRR to authorize payment of late vouchers if funds are available.

Analysis of the need for the rule: The annual apportionment allowed for reimbursement of expenses related to training is not always sufficient. This rule provides the proration of certain reimbursements if necessary.

The notice of proposed rulemaking did not include a regulatory flexibility analysis, a rural area flexibility analysis, or a job impact statement.

Legal basis for the rule: Real Property Tax Law, sections 202(1)(l); 318(4); 1530(3)(f); and L.2004, ch 53.

RULES ADOPTED IN 2000

1. TAF-11-00-00007-A. Cigarette Tax.

This rule amended Parts 70, 74, 79, 80, and 82 of Title 20 NYCRR to reflect certain statutory changes relating to New York State cigarette excise tax.

Analysis of the need for the rule: The rule reflects the statutory increase in the rate of New York State cigarette excise tax that was effective on March 1, 2000; to provide for commissions allowable to cigarette tax agents based upon the face value of cigarette tax stamps as of March 1, 2000; to effectuate the floor tax on cigarettes and unaffixed stamps in inventory as of the close of business on February 29, 2000; to reflect statutory changes to an agent's presumed cost of doing business; and to reflect such changes in the various regulatory illustrations.

Legal basis for the rule: Tax Law sections 171, subd. First; 475 (not subdivided); and L.1999, ch 1.

2. TAF-31-00-00002-A Returns and Payments of Tax on Alcoholic Beverages.

The rule amends section 60.1(a) of Title 20 NYCRR to allow certain distributors to file annual, rather than monthly, alcoholic beverage tax returns.

Analysis of the need for the rule: The rule allows certain distributors that are micro-breweries or restaurant brewers to file annual, rather than monthly alcoholic beverage tax returns, thereby reducing the filing burden of such distributors and resulting in long-term cost benefits to the department.

Legal basis for the rule: Tax Law sections 171, subd. First; 429(1); and 436 (not subdivided).

3. TAF-48-99-00001-A Excise Tax Stamps.

This rule amended section 75.1(f) of Title 20 NYCRR to implement requirements of the Tobacco Escrow Funds Act (Public Health Law, Article 13-G).

Analysis of the need for the rule: The department was required by the Tobacco Escrow Funds Act (Public Health Law, Article 13-G) to promulgate regulations necessary to ascertain the amounts of State excise tax paid on cigarettes sold within the State, as measured by the number of State excise tax stamps affixed to packages of cigarettes. This rule is necessary for New York to receive its apportioned amount of certain payments made 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.)

Legal basis for the Rule: Tax Law sections 171, subd. First; 475(not

subdivided); Public Health Law, section 1399-oo(10); and L.1999, ch 536.

4. RPS-40-99-00008-A Assessment Rolls - License Fees.

This rule amended former subpart 190-3 of Title 9 NYCRR to revise the schedule of annual license fees and to clarify certain liabilities for charges.

Analysis of the need for the rule: The annual fee paid by local government assessing units that use the New York State Real Property System (RPS) software to help defray the cost of the software development, maintenance, documentation and distribution needed to be increased based on enhancements made to the software. In addition, the rule provided for licensing fees to be charged to other users of the RPS software.

The notice of proposed rulemaking did not include a regulatory flexibility analysis, a rural area flexibility analysis, or a job impact statement.

Legal basis for the rule: Real Property Tax Law, section 202(1)(l); State Finance Law, section 97-kk.

5. RPS-48-99-00003-A Residential Assessment Ratios.

This rule amended former subpart 191-3 of Title 9 NYCRR to revise the standard for recomputation of residential assessment ratios.

Analysis of the need for the rule: The previous rule provided that a request for a revised residential assessment ratio (RAR) needed to result in a change of 2% for a new RAR to be established. This amendment reduced the standard from 2% to .01%, providing more accurate measures of the level of assessment of residential property.

The notice of proposed rulemaking did not include a regulatory flexibility analysis, a rural area flexibility analysis, or a job impact statement.

Legal basis for the rule: Real Property Tax Law, sections 202(1)(l), 738 and 1573.

6. RPS-18-00-00008-A Inventories of Physical Characteristics.

This rule amended former sections 190-1.1 and 192-3.2 of Title 9 NYCRR to modify standards for inventories of physical characteristics.

Analysis of the need for the rule: The Real Property Tax Law requires the assessor to ascertain inventory data related to real property located in the assessing unit. This rule modified the requirements to establish a more realistic and workable list of property characteristics that would meet the statutory requirements.

The notice of proposed rulemaking did not include a regulatory flexibility analysis, a rural area flexibility analysis, or a job impact statement.

Legal basis for the rule: Real Property Tax Law, sections 202(1); 500; and 501.

7. TAF-36-00-00003-A Federal Preparer Tax Identification Numbers.

The rule amended section 158.12 of 20 NYCRR relating to individual paid preparers.

Analysis of the need for the rule: This rule extended to individual paid preparers the federal option to use federally assigned Preparer Tax Identification Numbers instead of social security numbers when an individual identifying number of a paid preparer is required on New York State income tax returns that they prepare.

Legal basis for the rule: Tax Law sections 171 subd. First; 658(g)(1) and (2); and 697(a).

8. TAF-48-99-00022-A Verification of Income.

This rule amended section 201.1 of Title 20 NYCRR concerning verification of income of tenants in rent regulated housing.

Analysis of the need for the rule: The rule changed the provisions applicable to information contained in responses by the Department to the Division of Housing and Community Renewal (DHCR) concerning requests for verification of income of certain tenants residing in rent regulated housing, and reflected statutory changes in the related income threshold.

Legal Basis for the rule: Tax Law sections 171, subd. First and 171-b(3)(a) and (b).

9. TAF-16-00-00002-A Trash and Debris Removal Services.

This rule amended Part 541 of 20 NYCRR in relation to trash and debris removal service.

Analysis of the need for the rule: The rule amends Part 541 to authorize contractors to purchase trash and debris removal services exempt from sales tax as purchases for resale when such services are an integral part of maintaining, servicing, or repairing real property.

Legal basis for rule: Tax Law sections 171, subd. First; 1142(1) and (8); and 1250(not subdivided).

Dated: January 20, 2015

