

# RULE REVIEW

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## Power Authority of the State of New York

Please be advised that, following a review of actions taken by the Power Authority of the State of New York (the “Authority”) under State Administrative Procedure Act (“SAPA”) in the year 2011, it has been determined that no rules were enacted during 2010 that are subject to the “five-year review” requirements of SAPA § 207. Therefore, the Authority will not be submitting a list of rules subject to the five-year review for publication in the New York State Register.

## Department of Taxation and Finance

Pursuant to section 207 of the State Administrative Procedure Act (SAPA) the Department of Taxation and Finance intends to review the following rules during 2016, 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 14, 2016. 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 2011

#### 1. TAF-49-10-00002-A Cigarette and Tobacco Products Taxes.

This rule amended sections 70.2, 78.4, 89.1 and 89.2 of Title 20 NYCRR regarding Cigarette and tobacco products taxes.

Analysis of the need for the rule: The rule references current statute for definitions and penalties and eliminate obsolete provisions.

Legal basis for the rule: Tax Law, sections 171, subdivision First and 475 (not subdivided).

#### 2. TAF-49-10-00003-A Discretionary Adjustments to the Method of Allocation.

This rule amended sections 4-6.1 and 19-8.4 of Title 20 NYCRR regarding discretionary adjustments to the method of allocation.

Analysis of the need for the rule: The rule updates the administrative procedures concerning taxpayer requests for discretionary adjustments to the method of allocation.

Legal basis for the rule: Tax Law, sections 171, subd. First, 210(8), 1096(a) and 1454(a)(6).

#### 3. TAF-02-11-00011-A Assistance Program to Encourage Local Governments to Reassess on a Cyclical Basis.

This rule amended Real Property Tax Law, sections 201(1), 202(1)(k), and 1573(1)(a); and L. 2010, ch. 56, parts W and Y regarding an assistance program to encourage local governments to reassess on a cyclical basis.

Analysis of the need for the rule: To provide rules to implement the statutory authorized assistance to local governments to encourage a cycle of reassessments.

Legal basis for the rule: Real Property Tax Law, sections 201(1), 202(1)(k), and 1573(1)(a); and L. 2010, ch. 56, parts W and Y.

#### 4. TAF-10-11-00002-A Bureau of Conciliation and Mediation Services Procedures.

This rule amended Part 4000 of Title 20 NYCRR regarding Bureau of Conciliation and Mediation Services procedures.

Analysis of the need for the rule: To reflect statutory provisions relating to filing of certain petitions and to make other minor technical amendments.

Legal basis for the rule: Tax Law, sections 170(3-a) and 171, subdivision First.

#### 5. TAF-15-11-00009-A Obsolete Forms

This rule amended Parts 3, 6 and 21 of Title 20 NYCRR regarding obsolete forms.

Analysis of the need for the rule: To eliminate references to obsolete forms.

Legal basis for the rule: Tax Law, sections 171, subd. First and 1096(a).

### RULES ADOPTED IN 2006

#### 1. TAF-52-05-00018-A Mailing Rules and Legal Holidays.

This rule amended sections 2399.1, 2399.2(a)(1) and (d); addition of sections 2399.2(e) and (f); amendment of the titles of Part 2399 and sections 2399.2 and 2399.3 of Title 20 NYCRR regarding timely electronic filing and electronic paying.

Analysis of the need for the rule: This rule updated the Department’s Procedural Regulations concerning the timeliness of documents and payments that are filed and remitted by electronic means.

Legal basis for the rule: Tax Law, section 171, subds. First and Fourteenth.

#### 2. TAF-34-06-00005-A Taxation of Corporate Partners.

This rule amended section 1-2.6 and Parts 3 and 4 of Title 20 NYCRR regarding taxation of corporate partners.

Analysis of the need for the rule: This rule provided guidance with regard to the computation of the business corporation franchise tax imposed by Article 9-A of the Tax Law for corporations that are partners in partnerships or that are members of limited liability companies that are treated as partnerships under Article 9-A.

Legal basis for the rule: Tax Law, sections 171, subd. First and 1096(a).

#### 3. TAF-43-06-00006-A Reportable Transactions.

This rule added Part 2500 to Title 20 NYCRR regarding New York reportable transactions.

Analysis of the need for the rule: The Department’s Procedural Regulations were amended to add a new Part 2500 to provide a definition of a New York reportable transaction and the disclosure requirements for participation in a New York reportable transaction. Under Part 2500, a New York reportable transaction is a transaction that has the potential to be a tax avoidance transaction under articles 9, 9-A, 22, 32, or 33 of the Tax Law.

Legal basis for the rule: Tax Law, sections 25(a)(3); 171; subd. First; 697(a); and 1096(a).

4. TAF-43-06-00007-A New York Adjusted Gross Income of a Nonresident Individual.

This rule amended Parts 132 and 154 of Title 20 NYCRR regarding New York source income of nonresidents and part-year residents from stock options, stock appreciation rights and restricted stock.

Analysis of the need for the rule: This rule complied with the statutory directive of Tax Law sections 631(g) and 638(c), as amended by Chapter 62 of the Laws of 2006, requiring the Department to propose regulations within 180 days of enactment to provide allocation rules for certain nonresidents and part-year residents who were granted stock options, stock appreciation rights or restricted stock.

Legal basis for the rule: Tax Law, sections 171, subd. First; 631(g); 638(c); 697(a); and L. 2006, ch. 62, part N, section 3.

5. RPS-27-06-00006-A Training Requirements for New York City Assessors.

This rule added Subpart 188-8 to Title 9 NYCRR regarding training requirements for New York City assessors.

Analysis of the need for the rule: This rule implemented the program of training, certification and minimum qualification standards for New York City Assessors that was established by L.2005, ch.139.

Legal basis for the rule: Real Property Tax Law sections 202(1)(l) and 350-364.

6. RPS-38-06-00001-A RPS License Fees.

This rule amended section 190-3.2 of Title 9 NYCRR regarding License fees for users of the Real Property System (RPS).

Analysis of the need for the rule: This rule revised the annual license fees payable by users of the Real Property System (RPS).

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

RULES ADOPTED IN 2001

1. TAF-23-01-00043-A Taxpayer Record Retention Formats.

This rule amended sections 39.1, 51.2(f), 54.2, 56.1, 61.3, 68.4(e), 75.5(c), 158.3, 158.4, 267.3, 413.4, 417.1, 417.2(e), 418.1, 483.1, 483.5, 533.2, 538.4, 542.1, and addition of Part 2402 to Title 20 NYCRR regarding taxpayer record retention formats.

Analysis of the need for the rule: The Department's Procedural Regulations were amended to add a new Part 2402 to ensure timely compliance with the record retention and electronic record keeping provisions of the state Electronic Signatures and Records Act (State Technology Law, section 301 et seq.) and the federal Electronic Signatures in Global and National Commerce Act (15 USCS, section 7001 et seq.). Part 2402 provides for the voluntary use of electronic records by taxpayers and prescribes general standards applicable to the retention of electronic records that ensure that taxpayers who exercise this option are complying with their responsibilities under the Tax Law and under other applicable laws that are administered by the Commissioner. Conforming amendments were also made to sections 39.1, 51.2(f), 54.2, 56.1, 61.3, 68.4(e), 75.5(c), 158.3, 158.4, 267.3, 413.4, 417.1, 417.2(e), 418.1, 483.1, 483.5, 533.2, 538.4, and 542.1 of the regulations. Part 2402 is currently being reviewed and updated to take in account statutory changes made by Chapter 437 of the Laws of 2004.

Legal basis for the rule: Tax Law section 171, subds. First and Fourteenth.

2. TAF-17-01-00002-A Tax Rates.

This rule amended Part 530 of Title 20 NYCRR regarding tax rates and bracket schedules contained in the sales and use tax regulations.

Analysis of the need for the rule: This regulation was amended to repeal the tax rates and bracket schedules which indicated the amount of sales tax to be collected for various amounts of sales prices and tax rates, and replace them with standard methodology for rounding the amount of sales tax to be collected to the nearest penny.

Legal basis for the rule: Tax Law sections 171, subd. First; 1132(b); 1142(1) and (8); and 1250 (not subdivided).

3. TAF-26-01-00017-A The flags of the United States of America and the State of New York.

This rule amended section 528.12(b)(1) and repeal of section 528.12(c) of Title 20 NYCRR regarding flags of the United States of America and New York State.

Analysis of the need for the rule: This regulation was amended to update the definition of the term "flag" and, accordingly, to exempt from State and local sales and use taxes flags that are made from materials in addition to cloth and those accessories that are used solely for the display of the flag and are sold with the flag for a single charge.

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

4. RPS-08-01-00004-A Procedures for Market Value Surveys.

This rule amended Parts 186 and 191 of Title 9 NYCRR regarding procedures for determining State equalization rates with the goal of providing for more accurate and timely measurements of relative municipal full value for use in calculating the rates.

Analysis of the need for the rule: This rule made various revisions to the procedures for determining State equalization rates with the goal of providing for more accurate and timely measurements of relative municipal full value for use in calculating the rates. This rule was previously reviewed as part of the State Board of Real Property Services' 2006 Rule Review published in the State Register on January 4, 2006. As a result of that review of the 2001 rule, a Rule Review notice indicating that it would be continued without modification was published in the State Register on September 20, 2006.

Legal basis for the rule: Real Property Tax Law sections 202(1)(l) and 1202.

5. RPS-43-01-00007-A Reports by Special Franchise Owners and Review of Special Franchise Complaints.

This rule amended Part 197 of Title 9 NYCRR regarding reporting requirements to which special franchise owners were subject, and provided a more specific and consistent structure for the filing of complaints.

Analysis of the need for the rule: This rule simplified the reporting requirements to which special franchise owners were subject, and provided a more specific and consistent structure for the filing of complaints. This rule was previously reviewed as part of the State Board of Real Property Services' 2006 Rule Review published in the State Register on January 4, 2006. As a result of that review of the 2001 rule, a Rule Review notice indicating that it would be continued without modification was published in the State Register on September 20, 2006.

Legal basis for the rule: Real Property Tax Law sections 202(1)(l), 600, 604 and 612.