

The 30-hour supplemental course will be available on July 1, 2008, the effective date of the statutory amendments. Prospective licensees opting to take this course will therefore be able to take this course as of that date.

Regulatory Flexibility Analysis

1. Effect of rule:

The rule will apply to prospective real estate brokers and salespeople ("real estate licensees") who are applying for licensure pursuant to Article 12-A of the Real Property Law. Chapter 183 of the Laws of 2006, which takes effect on July 1, 2008, increased the education requirement for brokers from 90 to 120 hours and increased the education requirement for salespersons from 45 to 75 hours. The proposed rule making merely creates a 30-hour supplemental course for those real estate broker applicants who completed the required 45 hours of qualifying education prior to July 1, 2008, so that these applicants can possess the full 75 hours of salesperson qualifying education. The rule making will not have any foreseeable impact on jobs or employment opportunities for real estate licensees.

The rule does not apply to local governments.

2. Compliance requirements:

Insofar as the existing statute and regulations already require qualifying education for licensure, the proposed rule making will not add any new reporting, record-keeping or other compliance requirements.

The rule does not impose any compliance requirements on local governments.

3. Professional services:

Real estate licensees will not need to rely on any new professional services in order to comply with the rule. Licensees are already required to complete qualifying education pursuant to Article 12-A of the Real Property Law. Insofar as licensees must already attend and complete approved education courses, creating a 30-hour supplemental course for real estate salespersons who successfully completed the old 45-hour course will not result in the need to rely on any new professional services. The Department expects existing education providers to begin offering the proposed 30-hour supplemental course in accordance with the amended statute and the proposed rule making.

The rule does not impose any compliance requirements on local governments.

4. Compliance costs:

The rule making will result in compliance costs only for those prospective licensees who elect to take the 30-hour supplemental course. It is anticipated that the course will cost licensees approximately \$200.00.

The rule does not impose any compliance costs on local governments.

5. Economic and technological feasibility:

Since the rule does not impose any new record keeping requirements on prospective licensees, it will be technologically feasible for these persons to comply with the rule.

6. Minimizing adverse economic impact:

The Department of State has not identified any adverse economic impact of this rule. The rule does not impose any additional reporting or record keeping requirements on real estate licensees and does not require prospective licensees to take any affirmative acts to comply with the rule other than those acts that are already required pursuant to Real Property Law, Article 12-A.

7. Small business participation:

Prior to proposing the rule, the Department discussed the proposal at a public meeting of the New York State Real Estate Board, the minutes of which were posted on the Department's website. The public was given an opportunity to issue comments during the public comment period of the meeting. In addition, the Notice of Proposed Rule Making will be published by the Department of State in the *State Register*. The publication of the rule in the *State Register* will provide notice to local governments and additional notice to small businesses of the proposed rule making. Additional comments will be received and entertained by the Department.

Rural Area Flexibility Analysis

A rural flexibility analysis is not required because this rule does not impose any adverse impact on rural areas, and the rule does not impose any new reporting, record keeping or other compliance requirements on public or private entities in rural areas.

During the 2006 legislative session, a bill was passed to amend sections 440 and 441 of the Real Property Law to, in relevant part, increase the hours of qualifying education required for licensure as a real estate broker (from 90 to 120 hours) and salesperson (from 45 to 75 hours). The Department of State is permitted by Real Property Law section 441(1)(c) to credit the 75 hours of real estate salesperson qualifying education against the 120 hours required for licensure as a real estate broker.

The proposed rule making merely creates a 30 hour supplemental course for those real estate broker applicants who completed the 45 hours of qualifying education that was required prior to the statutory amendment. By successfully completing the 30 hour supplemental course, these ap-

plicants will possess the full 75 hours of salesperson qualifying education and will be entitled to credit those hours against the 120 hours of qualifying education required for licensure as a real estate broker.

Insofar as the existing statute already requires the successful completion of qualifying education for licensure as a real estate broker or salesperson, the proposed rule making will not add any new reporting, record-keeping or other compliance requirements on public or private entities in rural areas.

Job Impact Statement

A job impact statement is not required insofar as the proposed rule will not have a substantial adverse effect on jobs and employment opportunities for licensed real estate salespersons and brokers.

During the 2006 legislative session, a bill was passed to amend sections 440 and 441 of the Real Property Law to, in relevant part, increase the hours of qualifying education required for licensure as a real estate broker (from 90 to 120 hours) and salesperson (from 45 to 75 hours). The Department of State is permitted by Real Property Law section 441(1)(c) to credit the 75 hours of real estate salesperson qualifying education against the 120 hours required for licensure as a real estate broker.

The proposed rule making merely creates a 30 hour supplemental course for those real estate broker applicants who completed the 45 hours of qualifying education that was required prior to the statutory amendment. By successfully completing the 30 hour supplemental course, these applicants will possess the full 75 hours of salesperson qualifying education and will be entitled to credit those hours against the 120 hours of qualifying education required for licensure as a real estate broker.

Department of Taxation and Finance

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Definition of Resident for Personal Income Tax

I.D. No. TAF-42-08-00016-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of section 105.20(e)(1) of Title 20 NYCRR.

Statutory authority: Tax Law, sections 171, subd. First, 697(a), and 605(b)(1)

Subject: Definition of resident for personal income tax.

Purpose: To eliminate provisions regarding temporary stays.

Text of proposed rule: Section 1. Paragraph (1) of subdivision (e) of section 105.20 of such regulations is amended to read as follows:

(1) A permanent place of abode means a dwelling place permanently maintained by the taxpayer, whether or not owned by such taxpayer, and will generally include a dwelling place owned or leased by such taxpayer's spouse. However, a mere camp or cottage, which is suitable and used only for vacations, is not a permanent place of abode. Furthermore a barracks or any construction which does not contain facilities ordinarily found in a dwelling, such as facilities for cooking, bathing, etc., will generally not be deemed a permanent place of abode. [Also, a place of abode, whether in New York State or elsewhere, is not deemed permanent if it is maintained only during a temporary stay for the accomplishment of a particular purpose. For example, an individual domiciled in another state may be assigned to such individual's employer's New York State office for a fixed and limited period, after which such individual is to return to such individual's permanent location. If such an individual takes an apartment in New York State during this period, such individual is not deemed a resident, even though such individual spends more than 183 days of the taxable year in New York State, because such individual's place of abode is not permanent. Such individual will, of course, be taxable as a nonresident on such individual's income from New York State sources, including such individual's salary or other compensation for services performed in New York State. However, if such individual's assignment to such individual's employer's New York State office is not for a fixed or limited period, such individual's New York State apartment will be deemed a permanent place of abode and such individual will be a resident for New York State personal income tax purposes if such individual spends more than 183 days of the year in New York State. The 183-day rule applies only to taxpayers who are not domiciled in New York State.]

Section 2. These amendments shall take effect on the date that the Notice of Adoption is published in the *State Register*, and shall apply to taxable years ending on or after December 31, 2008.

Text of proposed rule and any required statements and analyses may be obtained from: John W. Bartlett, Tax Regulations Specialist 4, Department of Taxation and Finance, Taxpayer Guidance Division, Building 9, State Campus, Albany, NY 12227, (518) 457-1153, email: tax_regulations@tax.state.ny.us

Data, views or arguments may be submitted to: William Ryan, Director, Department of Taxation and Finance, Taxpayer Guidance Division, Building 9, State Campus, Albany, NY 12227, (518) 457-1153, email: tax_regulations@tax.state.ny.us

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement

1. Statutory authority: Tax Law, sections 171, Subdivision First, 697(a), and 605(b)(1). Section 171, Subdivision First authorizes the Commissioner to make reasonable rules and regulations that may be necessary for the exercise of the Commissioner's powers and performance of the Commissioner's duties. Section 697(a) authorizes the Commissioner to adopt regulations relating specifically to the personal income tax. Section 605(b)(1) provides that an individual who is not domiciled in New York is considered a resident if the individual maintains a permanent place of abode in the state and spends more than 183 days of the taxable year in the state.

2. Legislative objectives: This rule is being proposed pursuant to this authority to eliminate problematic provisions of the Personal Income Tax Regulations excepting "temporary stays" from the definition of permanent place of abode for purposes of the personal income tax on resident individuals.

3. Needs and benefits: The purpose of these amendments is to remove provisions of the regulations providing for a "temporary stay" exception from the definition of permanent place of abode for purposes of determining whether an individual is a resident for personal income tax purposes. The elimination of these provisions stems from what the Department believes is a better interpretation of section 605(b)(1) of the Tax Law. Under section 605(b)(1), an individual who is not domiciled in New York is considered a resident if the individual maintains a permanent place of abode in the state and spends more than 183 days of the taxable year in the state. Under section 105.20(e)(1) of the regulations, however, a place of abode will not be considered permanent if it is maintained only during a temporary stay, or "fixed and limited period," for the accomplishment of a "particular purpose." This temporary stay concept does not appear in the statute.

The Department has interpreted the particular purpose requirement to mean that an individual must be present in the state to accomplish a specific assignment with readily ascertainable and specific goals and conclusions, as opposed to a general assignment with general duties having no specified conclusion in order to qualify for the exception. The Department presumes an individual to be present for a fixed and limited period if the period of predetermined duration is reasonably expected to last for three years or less. Taxpayers and practitioners have criticized the temporary stay provisions as confusing and difficult to apply.

In eliminating these provisions, the Department is moving to what it believes is a better interpretation of section 605(b) of the Tax Law, which does not contemplate a temporary stay exception. The proposed rule levels the playing field among non-domiciliary taxpayers, providing equal treatment for all taxpayers who maintain a permanent place of abode within the state for more than eleven months, and spend more than 183 days within the state, irrespective of their purpose for doing so. This interpretation is appropriate because non-domiciliary taxpayers receive the same benefits and services from New York State regardless of their purpose for being in the state.

The temporary stay rule has also proven difficult to administer. Moreover, the effect of eliminating the temporary stay provisions is limited, in that section 105.20(a)(2) of the regulations provides that a place of abode must be maintained for substantially all of the taxable year in order to affect an individual's residency status. The Department has interpreted this requirement to mean that a taxpayer must maintain a permanent place of abode for more than eleven months of the taxable year. Thus, individuals temporarily residing within the state will continue to be considered non-residents unless they maintain a permanent place of abode for more than eleven months of a taxable year.

The elimination of the temporary stay exception from the definition of permanent place of abode will provide taxpayers and the Department with clear, objective, and easily applied rules for assessing residency status for New York State personal income tax purposes.

4. Costs:

(a) Costs to regulated parties: The rule does not impose any new compli-

ance costs on regulated parties. The change in interpretation of section 605(b)(1) may have an impact on the tax liability and reporting responsibilities of particular taxpayers. This is a function of what the Department believes is a better interpretation of the statutory provisions, and the particular circumstances of the affected taxpayers. Only those individuals who would qualify for the temporary stay exception and be considered non-residents but for the amendments will be affected by the change. Such individuals will continue to be considered non-residents if they maintain a permanent place of abode for less than eleven months of the taxable year.

The Department does not have data to precisely identify the affected individuals. However, according to information from the Department's Audit Division, nearly all of the identified cases involving temporary residence (focusing on New York City addresses) involve foreign nationals in the United States on working visas (H-1Bs). Therefore, to estimate the impact of these amendments, data for H-1B visa holders in New York obtained from the US Department of Homeland Security's (DHS) 2006 Yearbook of Immigration Statistics were used along with New York State personal income tax data from the Department's Office of Tax Policy Analysis for 2006. The following revenue analysis does not take into account that some of the taxpayers may be improperly reporting as non-residents, so that the impact on the aggregate tax liability of this group based on the rule might be somewhat lower.

The total number of non-immigrants in New York in 2006 with H-1B visas of 69,709 was adjusted to take out taxpayers who have foreign addresses, but file as full year residents since they would not be affected by these amendments. Next, the number of H-1B visa holders was split between those who are within their first three years and those who renewed for an additional three years. The percentage that renewed their visas (45.5%) was obtained from the average of visas renewed between 2000 and 2003.

The DHS also provided the 2003 median salary for all H-1B visa holders of \$70,000. This value was grown to 2008 by using the New York State Department of Budget forecast for wages from 2003 to 2008. The resulting estimated prospective annual wage in New York for all H-1B visa workers in 2008 is \$93,000. The annual salary was multiplied by the adjusted total number of H-1B visa holders in New York to get estimated total New York wages for these individuals. These total wages were then divided between those in their first three years and those in their second three-year term.

To determine the amount of unearned income that would affect the tax calculation due to these amendments, an estimated ratio of unearned income to earned income of 10% was applied to the total earned income estimates calculated above for each group of H-1B visa holders. The 10% was obtained from 2006 Personal Income Tax data, looking at the unearned and earned income for all New York full-year residents (in New York City) with earned income between \$90,000 and \$95,000. Earned income includes business income and wages and unearned income includes only interest, dividends, and capital gains. Also using the 2006 Personal Income Tax Study data, an average effective tax rate for New York residents with earned income between \$90,000 and \$95,000 was calculated to be 4.7%. Lastly, the tax rate is applied to the estimated unearned income and to the years that the amendments apply to come up with the potential revenue gain from eliminating the temporary stay provisions. For those H-1B visa holders who are here for three years or less, it is assumed that the first and last years are less than eleven months, and therefore they would not be considered statutory residents; and for those H-1B visa holders in New York for over three years, it is assumed that they are in New York for one more three-year term, and the last year is less than eleven months. The potential revenue gain to New York State due to elimination of the temporary stay provisions applied to H-1B visa holders in New York is \$15 million.

The same procedure was applied to estimate New York City's potential revenue gain from these amendments. However, note that New York City presently does not tax non-residents' income (both earned and unearned). Therefore, these amendments would generate more revenue at the city level than at the state level. Thus, the total estimated New York Wages was multiplied by 35.1%, which is the ratio of New York wages that are from New York City (obtained from 2006 Personal Income Tax data) to calculate the New York City wages of H-1B visa holders.

The New York City wages are split again between those that are within their first three years and those who renewed for an additional three years and then multiplied by an average effective tax rate for New York City of 2.8%. The 2.8% was estimated using 2006 Personal Income Tax data for New York City taxes paid for New York residents with non-New York addresses, compared to their New York adjusted gross income.

As with the State estimate, the values are applied to the years to which the amendments apply to calculate the potential revenue gain to New York City from eliminating the temporary stay provisions. Therefore, the potential revenue gain to New York City from eliminating the temporary stay provision, applied to H-1B visa holders in New York, is \$30 million.

The amendments apply to taxable years ending on or after December 31, 2008. Therefore, for State Fiscal Year 2008 - 2009, the impact would be minimal, and for State Fiscal Year 2009 - 2010 and thereafter, there would be an increase of \$15 million annually. Similarly, New York City would experience a minimal impact in State Fiscal Year 2008 - 2009, and an increase of \$30 million in State Fiscal Year 2009 - 2010 and thereafter.

To see the effect on a representative taxpayer, consider a typical H-1B visa holder working in New York City. Assume his or her annual salary is \$93,000, and he or she is in the second year of a three-year stay (in which case, the individual is considered a resident, and his or her income is taxed accordingly). Using the 10% estimated ratio of unearned to earned income would produce unearned income of \$9,300 for the individual. Applying a 4.7% average effective state tax rate, the individual would see his or her state tax liability increase by \$437. In addition, since this individual lives in New York City, and is considered a New York City resident for tax purposes, he or she would also owe New York City income tax (currently, New York City does not tax non-residents). Therefore, the taxpayer would pay an average effective New York City tax rate of 2.8% on \$102,300 (\$93,000 in earned income plus the \$9,300 in unearned income) for a New York City tax liability of \$2,864. As a result of the amendments eliminating the temporary stay exception, a typical H-1B visa holder working in New York City could see his or her State and City tax liability increase by approximately \$3,300 per year.

Additionally, certain individuals with no New York State earned income, previously not required to file a New York State income tax return, may now be required to file a return. It is estimated that the costs associated with complying with this filing requirement for the first time would be approximately \$145, and \$58 annually thereafter. This estimate is based on the estimated number of hours necessary to prepare and file a New York State Resident Income Tax Return. The estimate is higher in the first year due to the time needed to learn about the form and requirements.

(b) Costs to the agency and to the State and local governments including this agency: It is estimated that the implementation and continued administration of this rule will not impose any costs upon this agency, New York State, or its local governments. As discussed above, the rule will result in increased revenue for the State and New York City.

(c) Information and methodology: The methodology employed to estimate the impact of the proposed rule is set forth in detail in the discussion of costs in section four herein. This analysis is based on a review of the rule, on discussions among personnel from the Department's Taxpayer Guidance Division, Office of Counsel, Office of Tax Policy Analysis, and Office of Budget and Management Analysis, and on data obtained both from the Department's records and from the United States Department of Homeland Security.

5. Local government mandates: This rule imposes no mandates upon any county, city, town, village, school district, fire district, or other special district.

6. Paperwork: The rule imposes no new reporting requirements, forms, or other paperwork upon regulated parties. There may be a limited number of individuals with no New York State sourced income who may be required to file a return, where they were not previously required to do so.

7. Duplication: There are no relevant rules or other legal requirements of the Federal or State governments that duplicate, overlap, or conflict with this rule.

8. Alternatives: The Department considered retaining the temporary stay rule but determined that the proposed rule represents a better interpretation of section 605(b)(1) of the Tax Law, and treats non-domiciliaries more even-handedly. The Department also considered modifying the rule in keeping with a suggestion made by the New York State Society of Certified Public Accountants. The Society acknowledged the problematic nature of the rule, but suggested a "safe harbor" analysis which would entail consideration of the duration of the individual's stay in New York State, and the individual's ties to his or her domicile. The Department concluded that this alternative would not resolve the fundamental problems caused by the temporary stay concept.

The following organizations were notified that the Department was in the process of developing this rule and were given the opportunity to participate in its development: the National Federation of Independent Businesses; the Division for Small Business of Empire State Development; the New York State Association of Counties; the Association of Towns of New York State; the New York Association of Convenience Stores; the Small Business Council of the New York State Business Council; the Retail Council of New York State; the New York State Conference of Mayors and Municipal Officials; the Office of Local Government and Community Services of the New York State Department of State; the Tax Section of the New York State Bar Association; the National Tax Committee for the National Conference of CPA Practitioners; and the New York State Society of CPAs. The Department also discussed the rule with the New York City Department of Finance. Only the Society of CPAs

submitted comments. The temporary stay provision has been the subject of frequent criticism from taxpayers and tax practitioners.

9. Federal standards: The rule does not exceed any minimum standards of the Federal government for the same or similar subject area.

10. Compliance schedule: The amendment will take effect when the Notice of Adoption is published in the State Register, and apply to taxable years ending on or after December 31, 2008.

Regulatory Flexibility Analysis

1. Effect of rule: This rule amends section 105.20(e)(1) of the personal income tax regulations to remove provisions of the regulation allowing for a "temporary stay" exception from the definition of permanent place of abode in determining residency for personal income tax purposes. The elimination of these provisions results from what the Department believes is a better and clearer interpretation of section 605(b)(1) of the Tax Law.

This rule will have no effect on local governments, except as to the impact on New York City personal income tax discussed in the Regulatory Impact Statement. It also will also have no effect on small businesses. The rule imposes no reporting requirements, forms, or other paperwork upon small businesses beyond those required by existing law and regulations. The impact of the rule is not on small businesses but on certain non-domiciliaries who maintain a permanent place of abode within New York State. Some small businesses may have to begin withholding New York City income tax for certain non-domiciliary employees working in New York City, which does not impose income tax on non-residents.

2. Compliance requirements: The promulgation of this rule will not require small businesses or local governments to submit any new information, forms or other paperwork.

3. Professional services: Many small businesses currently utilize bookkeepers, accountants and professional payroll services in order to comply with existing withholding requirements. This rule will do nothing to encourage or discourage the use of any of such services.

4. Compliance costs: These changes will place no additional burdens on small businesses and local governments. The change in the definition of resident will affect certain individuals who are not domiciled in the State. See the Regulatory Impact Statement for discussion of the impact on these individuals.

5. Economic and technological feasibility: This rule does not impose any economic or technological compliance burdens on small businesses or local governments.

6. Minimizing adverse impact: The rule does not adversely impact small businesses or local governments.

7. Small business and local government participation: The following organizations were notified that the Department was in the process of developing this rule and were given an opportunity to participate in its development: the National Federation of Independent Businesses; the Division for Small Business of Empire State Development; the New York State Association of Counties; the Association of Towns of New York State; the New York Association of Convenience Stores; the Small Business Council of the New York State Business Council; the Retail Council of New York State; the New York State Conference of Mayors and Municipal Officials; the Office of Local Government and Community Services of the New York State Department of State; the Tax Section of the New York State Bar Association; the National Tax Committee for the National Conference of CPA Practitioners; and the New York State Society of CPAs. The Department also discussed the rule with the New York City Department of Finance. Only the New York State Society of CPAs submitted comments. The Society acknowledged the problematic nature of the temporary stay rule, but suggested a "safe harbor" analysis based on the duration of the individual's stay in New York and the individual's ties to his or her domicile. The Department concluded that this alternative would not resolve the fundamental problems caused by the temporary stay concept.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas: This rule amends section 105.20(e)(1) of the personal income tax regulations to remove provisions allowing for a "temporary stay" exception from the definition of "permanent place of abode," for determining residency for personal income tax purposes. The change will primarily affect non-domiciliaries maintaining residences in New York City. There may be a limited number, however, in rural areas. There are 44 counties in the State that are rural areas (having a population of less than 200,000) and 9 more counties having towns that are rural areas (with population densities of 150 or fewer people per square mile).

2. Reporting, recordkeeping and other compliance requirements; and professional services: The rule may affect the reporting requirements on certain non-domiciliaries who maintain a permanent place of abode within the state for more than eleven months of the taxable year and spend more than 183 days within the state. Such individuals are likely already required

to file a non-resident income tax return, but under this rule may be required to file a resident income tax return instead. In addition, some individuals not currently required to file an income tax return may now need to file a resident income tax return.

3. **Costs:** These changes will place no additional burdens on rural areas. Certain non-domiciliary individuals living in rural areas may have an increased New York State personal income tax liability as a result of this rule, because they will be considered New York State residents for tax purposes and there will be a tax effect related primarily to unearned income. The impact on tax liability depends on the particular circumstances of the taxpayer.

4. **Minimizing adverse impact:** The rule does not adversely impact rural areas. The rule will provide non-domiciliary taxpayers with clear, objective, and easily applied rules for assessing their residency status for New York State personal income tax purposes.

5. **Rural area participation:** The following organizations were notified that the Department was in the process of developing this rule and were given an opportunity to participate in its development: the National Federation of Independent Businesses; the Division for Small Business of Empire State Development; the New York State Association of Counties; the Association of Towns of New York State; the New York Association of Convenience Stores; the Small Business Council of the New York State Business Council; the Retail Council of New York State; the New York State Conference of Mayors and Municipal Officials; the Office of Local Government and Community Services of the New York State Department of State; the Tax Section of the New York State Bar Association; the National Tax Committee for the National Conference of CPA Practitioners; and the New York State Society of CPAs. The Department also discussed the rule with the New York City Department of Finance. Only the New York State Society of CPAs submitted comments. The Society acknowledged the problematic nature of the temporary stay rule, but suggested a "safe harbor" analysis based on the duration of the individual's stay in New York and the individual's ties to his or her domicile. The Department concluded that this alternative would not resolve the fundamental problems caused by the temporary stay concept.

Job Impact Statement

A Job Impact Statement is not being submitted with this rule because it is evident from the subject matter of the rule that it would have no impact on jobs and employment opportunities. The rule amends section 105.20(e)(1) of the personal income tax regulations to eliminate provisions allowing for a "temporary stay" exception from the definition of "permanent place of abode," for purposes of determining residency under the personal income tax.

Consensus Rule Making Determination

The Office of Temporary and Disability Assistance (OTDA) is proposing amendments to 18 NYCRR § 347.10 to reflect the revised poverty income guidelines as reported by the federal Department of Health and Human Services, the revised self-support reserve, and the updated child support standards chart which are used to calculate child support obligations. OTDA has determined that no person is likely to object to the adoption of the proposed rule as written.

The proposed amendments to 18 NYCRR § 347.10 are necessary to conform the regulation to the requirements of section 111-i(2) of the Social Services Law (SSL). Section 111-i(2)(a) of the SSL provides that OTDA shall publish annually in its regulations the revised self-support reserve to reflect the annual updating of the poverty income guidelines amount for a single person, and section 111-i(2)(b) of the SSL provides that OTDA shall publish in its regulations a child support standards chart to reflect the dollar amounts yielded through application of the child support percentage. Thus OTDA is required by State statute to update its regulatory provisions on an annual basis.

The updated financial information does not reflect discretion exercised by OTDA. The self-support reserve and the child support percentage are defined in the Domestic Relations Law, and the poverty income guidelines amount for a single person is reported by the federal Department of Health and Human Services. Thus the proposed amendments are not establishing new financial criteria. Instead they are setting forth existing requirements.

The proposed child support standards chart presently is being utilized by the local child support enforcement units to calculate child support obligations. Thus the proposed amendments will conform 18 NYCRR § 347.10 to reflect the actual practices of the local child support enforcement units in the State.

It is expected that no person will object to the proposed amendments contained in this consensus rule since the amendments are necessary to comply with the SSL, and the amendments reflect updated financial information which is being used to calculate child support obligations.

Job Impact Statement

A job impact statement has not been prepared for the proposed regulatory amendments. It is evident from the subject matter of the amendments that the jobs of the persons making the decisions required by the proposed amendments will not be affected in any real way. Thus the changes will not have any impact on jobs and employment opportunities in the State.

Office of Temporary and Disability Assistance

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Child Support Standards Chart

I.D. No. TDA-42-08-00003-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: This is a consensus rule making to amend section 347.10 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d), 34(3), 111-a and 111-i

Subject: Child support standards chart.

Purpose: To reflect the revised poverty income guidelines amount, the revised self-support reserve and the updated child support standards chart.

Text of proposed rule: See Appendix in this issue.

Text of proposed rule and any required statements and analyses may be obtained from: Jeanine Stander Behuniak, New York State Office of Temporary and Disability Assistance, 40 North Pearl Street 16C, Albany, New York 12243-0001, (518) 474-9779, email: Jeanine.Behuniak@OTDA.state.ny.us

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.