

NOTICE OF RULE MAKING

Pursuant to the power vested in me as Commissioner of Finance by New York City Charter ("Charter") §§1043 and 1504, I hereby promulgate the following amendment to the Rules relating to the Representation of Taxpayers and Power of Attorney forms required by the Department of Finance. These rules were published in proposed form on June 19, 2017. A hearing for public comment was held on July 19, 2017.



Jacques Jihan, Commissioner of Finance

Statement of Basis and Purpose of Rules

The amendments:

- Eliminate the requirement to notarize Power of Attorney forms,
- Require that Power of Attorney forms must be affirmatively revoked by filing a specific revocation, and
- Permit filing of Power of Attorney forms in such other manner as the Department may designate.

These amendments allow the Department of Finance to continue partnering with the New York State Department of Taxation and Finance to provide the public with a joint Power of Attorney Form. Historically the Department of Finance has accepted the joint form issued by the State Tax Department. However, the joint form has recently been modified by the State Tax Department, and is no longer notarized. These amendments enable the Department of Finance to accept the new form as modified, and give the Department of Finance flexibility to create new pathways for submitting the form. These amendments also make it easier for taxpayers to grant Powers of Attorney.

Matter underlined is new. Matter in [brackets] is to be deleted.

"Will" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department unless otherwise specified or unless the context clearly indicates otherwise.

The amendments are as follows:

Section one. Subdivision (a) of section 27-01 of Chapter 27 of Title 19 of the Rules of the City of New York is amended to read as follows:

(a) *Scope.* This rule concerns representation of taxpayers before the Commissioner of Finance with respect to matters arising under chapters 5, 6, 7, 8, 9, 11, 12, 13, [10, 24, 9,] 14, 21, [15, 8, 7, 22, 11, 6, 5,] 24, and 25[, 14 and 27] of title 11 of the New York City Administrative Code, and any other tax laws requiring administration and collection by the commissioner. It does not apply to matters arising under chapter 39 of title 19 of the Rules of the City of New York (parking violation rules) or to proceedings before the New York City Tax Appeals Tribunal. This rule does not apply to proceedings before the Conciliation Bureau of the New York City Department of Finance, which are governed by the rules in

chapter 38 of this title.

§ 2. Paragraph (3) of subdivision (e) of section 27-01 of Chapter 27 of Title 19 of the Rules of the City of New York, requiring acknowledgement of a power of attorney, is hereby REPEALED.

§ 3. Paragraphs (5) and (6) of subdivision (e) of section 27-01 of Chapter 27 of Title 19 of the Rules of the City of New York are amended to read as follows:

(5) Filing.

(i) A power of attorney must be filed and received in the office of the department in which the matter is pending or in such other manner as the department may designate. The power of attorney must be filed with the department in a conspicuous manner. Accordingly, a power of attorney should not be attached to, or incorporated in, any return, report or other document that is routinely filed with the department, unless the return, report, or other document specifically provides for such attachment or incorporation.

(ii) The department may, in its discretion, accept a copy or facsimile transmission (FAX) of a power of attorney. The department may also require proof of the existence and validity of the original power of attorney.

(6) Modification and revocation.

(i) In any case in which a power of attorney has been filed and thereafter the taxpayer desires to authorize an additional or a different representative in the same matter, except as provided in subparagraph (4)(iii) of this subdivision, a new power of attorney must be filed in the office of the department in which the previous power of attorney is filed. [Unless otherwise expressly stated, a new power of attorney when received in the office of the department in which the matter is pending revokes any and all powers of attorney previously filed with respect to the same matter in any office of the department in the same matter.]

(ii) A taxpayer may revoke a power of attorney [without authorizing a new representative] by filing a statement of revocation with the office of the department in which the taxpayer has filed the power of attorney to be revoked. The statement must indicate that the authority of the first power was revoked and be signed by a principal, and a copy of the power to be revoked must be attached.

(iii) A representative may withdraw from representation in a matter in which a power of attorney has been filed by filing a statement with the office of the department in which the power of attorney has been filed. The statement must be signed by the representative and must identify the name and address of the taxpayer and the matter from which the representative is withdrawing.