

New York City Department of Finance

Notice of Public Hearing and Opportunity to Comment on Proposed Rule

What are we proposing? The Department of Finance (the “Department”) is proposing a change to Section 27-01 of Chapter 27 of Title 19 of the Rules of the City of New York. The amended rule will provide that Power of Attorney forms do not require notarization under any circumstances, must be affirmatively revoked by filing a specific revocation, and may be filed in the office or location the department may designate.

When and where is the hearing? The Department of Finance will hold a public hearing on the proposed rule. The public hearing will take place at 11:00am on July 19, 2017. The hearing will be in the Department of Finance hearing room at 345 Adams Street, 3rd Floor, Brooklyn, N.Y. 11201.

How do I comment on the proposed rule? Anyone can comment on the proposed rule by:

- **Website.** You can submit comments to the Department of Finance through the NYC rules website: <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to steffyj@finance.nyc.gov.
- **Mail.** You can mail comments to NYC Department of Finance, Legal Affairs Division, 345 Adams Street, 3rd Floor, Brooklyn, N.Y. 11201, Attn: John R. Steffy.
- **Fax.** You can fax comments to NYC Department of Finance, Attn: John R. Steffy, at (718) 488-2471.
- **Hearing.** You can speak at the public hearing. Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling Joan Best at (718) 488-2007, or you can sign up in the hearing room before the hearing begins on July 19, 2017. You can speak for up to three minutes.

Is there a deadline to submit written comments? The deadline to submit written comments is July 19, 2017.

What if I need assistance to participate in the hearing? The meeting will be held at 345 Adams Street, 3rd Floor, Brooklyn, NY 11201. The back entrance is accessible to persons using wheelchairs and others with disabilities. Accessible restrooms are available. Materials in alternative formats, ASL interpreters, real-time captioning and other accommodations will be made available upon request. Please contact Joan Best by telephone, by calling (718) 488-2007; or by e-mail at bestj@finance.nyc.gov to make your accommodation requests. Provide at least 72 hours’ notice prior to the hearing to ensure availability. In order to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are requested to refrain from using perfume, cologne, and other fragrances.

Can I review the comments made on the proposed rule? You can review the comments that have been submitted online by visiting the NYC rules website: <http://rules.cityofnewyork.us/>. In addition, copies of all submitted comments concerning the proposed rule and a summary of oral

comments from the hearing will be available to the public a few days after the hearing at NYC Department of Finance, Legal Affairs Division, 345 Adams Street, 3rd Floor, Brooklyn, N.Y. 11201.

What authorizes the Department of Finance to adopt this rule? New York City Charter (the “Charter”) §§ 1043 and 1504 authorize the Department of Finance to adopt this proposed rule; the Department is authorized to administer matters arising under chapters 5, 6, 7, 8, 9, 11, 12, 13, 14, 21, 24, and 25 of Title 11 of the New York City Administrative Code, and any other tax laws requiring administration and collection by the commissioner. This proposed rule was not included in the Department of Finance’s regulatory agenda for this fiscal year because it was not anticipated when the agenda was developed.

Where can I find the Department of Finance’s rules? The Department of Finance’s rules can be found in Title 19 of the Rules of the City of New York.

What laws govern the rulemaking process? The Department of Finance must meet the requirements of § 1043 of the Charter when creating or amending rules. This notice is made according to the requirements of § 1043 of the Charter.

Statement of Basis and Purpose of Proposed Rules

The proposed 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 the office location the Department may designate.

These amendments will 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. 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 proposed 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.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Rules Governing Power of Attorney Forms

REFERENCE NUMBER: 2017 RG 034

RULEMAKING AGENCY: Department of Finance

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: May 25, 2017

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Rules Governing Power of Attorney Forms

REFERENCE NUMBER: DOF-31

RULEMAKING AGENCY: Department of Finance

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

May 25, 2017
Date