

POLICY CHANGE IN DEFINING THE TERM "PRIMARILY"

This memorandum sets forth a change in the policy of the New York State Tax Commission regarding the definition of the term "primarily".

The Sales and Use Tax Regulations define "primarily" to mean at least 75 percent.

In the matter of the Petition of Moran Towing and Transportation Co., Inc. et al, the Commission determined that the term "primarily", when used in the Tax Law and Regulations, means 50% or more.

Current department policy, therefore, is to define "primarily" as 50% or more. The Sales and Use Tax Regulations will be amended to reflect this policy change.