

1985 LEGISLATION - CHAPTER 830

SERVICES TO RAILROAD ROLLING STOCK

Chapter 830 of the Laws of 1985 adds a new exception (subparagraph vii) to the sales tax imposed under section 1105(c)(3) of Article 28 of the Tax Law. Subparagraph (vii) provides that on and after September 1, 1985, purchases of the services of installing, maintaining, servicing or repairing railroad rolling stock primarily engaged in carrying freight in intrastate, interstate, or foreign commerce, may be made without payment of sales or use tax in New York State. The charge for parts or any other tangible personal property is not included in this exception.

Railroad rolling stock includes railway cars and locomotives.

Primarily, for purposes of this exception, means 50% or more of the time used in carrying freight in intrastate, interstate or foreign commerce (See TSB-M-85(12)S).

Where the charge for parts or other tangible personal property is not stated separately from the charge for services, the total combined amount reflecting tangible personal property and services is subject to tax.

Form ST-121, Exempt Use Certificate, should be properly executed and given to a vendor, in order to make a tax free purchase. A description of the tax free use and the section of the Tax Law covering this exception should be entered under box (e).