

Sales and Use Tax Exemptions Relating to Certain Ferry Boats

Chapter 580 of the Laws of 2008, enacted on September 25, 2008, amended the Tax Law to exempt the sale and use of certain ferry boats, and certain property (described below) purchased or used to operate those ferry boats, from state and local sales and use taxes (sales tax).

Exemption for ferry boats and related property, effective on and after September 1, 2008

To be eligible for this exemption, a ferry boat must be used directly and predominantly to provide ferry service for vehicles and passengers within a county or counties in New York State by a ferry company whose rates for ferry service are regulated by the county or counties in which that service is provided under section 131-g of the Highway Law. In addition to this ferry boat exemption, fuel, provisions, and supplies used in operating an exempt ferry boat and property purchased or used to maintain or repair an exempt ferry boat are also exempt from sales tax. However, these exemptions do not apply to charges for the service of maintaining, servicing, or repairing an exempt ferry boat or related property.

These exemptions for ferry boats and related property apply to boats and property purchased on or after September 1, 2008.

Refund or credit of tax paid on ferry boats purchased between January 1, 2008 and August 31, 2008

This legislation also allows a refund or credit of sales tax paid on the purchase or use of an eligible ferry boat that occurred on or after January 1, 2008, through August 31, 2008. This refund or credit does not apply to property purchased or used to operate or maintain or repair a ferry boat prior to September 1, 2008. You must apply for this refund or credit by December 31, 2009, by filing Form AU-11, *Application for Credit or Refund of Sales or Use Tax*.

How to make exempt purchases or obtain a refund of tax paid (other than for fuel)

A ferry boat company that purchases a boat or related property that qualifies for the exemptions described above, other than for fuel, must submit a properly completed Form ST-121, *Exempt Use Certificate*, to the vendor. To complete Form ST-121, the purchaser must check the “*Other*” box in Part III of this form and write “*Property purchased to operate, maintain, or repair an exempt ferry boat (Tax Law section 1115(a)(43))*” in the box. Form ST-121 must be submitted to the vendor within 90 days after the delivery of the exempt boat or property. If you purchased a eligible ferry boat or related exempt property on or after September 1, 2008, and you paid tax on your purchase, you may apply for a refund of the tax you paid by filing Form AU-11, *Application for Credit or Refund of Sales or Use Tax*.

Refund of tax paid for fuel

Sales tax must be paid at the time of purchase on fuel used to operate an exempt ferry boat. However, the ferry boat company may apply for a refund of sales tax paid on purchases of fuel made on or after September 1, 2008, if the fuel is used to operate an exempt ferry boat, by filing Form FT-500, *Application for Refund of Sales Tax Paid on Automotive Fuels*. This form must be filed within three years of the date the tax was paid.

Reporting requirements

On or before December 24, 2008, a ferry boat company providing ferry service using boats eligible for the above exemptions must file a statement with the county board of supervisors or county legislature in the county or counties in which the company provides ferry service. This statement must provide both actual and projected savings in dollars to be realized by the ferry company as a result of this legislation. At the same time that the ferry company files the report with a county, it must also file a copy of the report with the Department of Taxation and Finance in Albany.

Note: A TSB-M is an informal statement of changes to law, regulations or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeal Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.