



Supplemental Summary of 2010 Legislation Affecting Sales and Use Tax

This memorandum contains a summary of recently enacted legislation applicable to sales and use taxes that is in addition to the sales and use tax budget legislation described in [TSB-M-10\(18\)S](#), *Summary of the 2010 Sales and Use Tax Budget Legislation*. Amendments covered are:

- [Creation of the North Country Power Authority](#)
- [Enrolled agents excluded from the definition of tax return preparer under the Tax Preparer Registration Program](#)

Creation of the North Country Power Authority

Under legislation enacted on October 1, 2010, the North Country Power Authority (NCPA) was created for the purpose of providing electric power services in its service area, consisting of portions of Franklin and St. Lawrence counties.

Under the new law, the NCPA is a public benefit corporation, constituting an exempt organization for sales tax purposes under section 1116(a)(1) of the Tax Law. Therefore, the NCPA is exempt from state and local sales and use taxes on all its purchases. However, NCPA is required to collect sales and use tax on its sales of property or services of a kind ordinarily sold by private persons.

Therefore, since private persons do regularly sell electric power, and the NCPA will sell electric power, the NCPA will be required to register with the Tax Department for sales tax purposes, collect sales tax on its taxable sales, comply with the sales tax record keeping requirements, file sales tax returns, and remit sales tax required to be collected with its returns.

Also, the NCPA is required to make payments in lieu of taxes (PILOTS) for taxes that would have been received by municipalities and school districts and on the taxes that would otherwise be imposed on utilities under Tax Law section 186-a, former Tax Law section 186 (as it existed on December 1, 1999), and any taxes imposed within the NCPA's service area pursuant to General City Law section 20-b and Village Law section 5-530.

(Chapter 533 of the Laws of 2010 enacting sections 1021 through 1021-s of the Public Authorities Law)

Enrolled agents excluded from the definition of *tax return preparer* under the Tax Preparer Registration Program

Chapter 242 of the Laws of 2010 amended the definition of *tax return preparer* in section 32 of the Tax Law. The definition is used to determine who needs to register for the Tax Preparer Registration Program.

After the amendment, enrolled agents, and employees of an enrolled agent firm, law firm, public accounting firm, or certified public accounting firm who prepare returns under the supervision of an enrolled agent in that firm, are excluded from the definition of tax return preparer.

Note: An enrolled agent who is excluded from the definition of a tax return preparer is still subject to the registration requirements if he or she facilitates the making of a refund anticipation check or refund anticipation loan.

The amendment applies on or after July 30, 2010, and is not retroactive. Therefore, enrolled agents who registered under the Tax Preparer Registration Program and paid the registration fee prior to July 30, 2010, are not entitled to a refund.

For additional information, see [TSB-M-10\(9\)S](#), *Enrolled Agents Excluded from the Definition of Tax Return Preparer for the Tax Preparer Registration Program*.

(Tax Law section 32(a)(14))

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