

DEFINITION OF COMMERCIAL VESSEL ENGAGED
IN INTERSTATE OR FOREIGN COMMERCE

Under Section 1135(a)(8) of the Tax Law, the purchase of commercial vessels primarily engaged in interstate or foreign commerce is exempt from sales and use tax. Section 1105(c)(3)(iv) of the Tax Law provides that charges for servicing, maintaining or repairing a commercial vessel that qualifies for exemption under section 1115(a)(8) of the Tax Law are not subject to sales tax.

The sales tax regulations relating to these exemptions, sections 528.9(a) and 527.5(b)(5)(ii) respectively, were amended effective November 23, 1987. The purpose of these amendments is to make the definitions contained within the regulations uniform, and to conform the definition of "interstate or foreign commerce" contained in these regulations to the generally accepted meaning of the term. This is not a change in Tax Law or Tax Department policy; it is just a clarification of definitions and terms.

The amended regulations, sections 528.9(a) and 527.5(b)(5)(ii), define the terms used to describe commercial vessels primarily engaged in interstate or foreign commerce as follows:

Vessel (Section 528.9(a7))

Any type of water craft used for the transportation of property or persons on water.

Commercial vessel (Sections 527.5[b][5][ii] and 528.9[a])

Any vessel used or engaged in the transportation for hire of persons or property on water. (Any vessel used or engaged for other purposes on more than an occasional basis is not a commercial vessel.)

Commercial vessel primarily engaged in interstate or foreign commerce (Section 528.9[a])

A vessel that derives 50% or more of its receipts from interstate or foreign commerce.

Interstate or foreign commerce (Section 528.9[a])

The transportation of persons or property between states or countries.