

STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
COMMISSIONER OF TAXATION AND FINANCE
ALBANY, NEW YORK

Pursuant to the authority contained in subdivision First of section 171, subdivisions (1) and (8) of section 1142, and section 1250 (not subdivided) of the Tax Law, the Commissioner of Taxation and Finance hereby proposes to make and adopt the following amendments to the Sales and Use Taxes Regulations, as published in Subchapter A of Chapter IV of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York, the amendments to read as follows:

Section 1. Paragraph (2) of subdivision (a) of section 528.7 of such regulations is amended to read as follows:

(2) The services of installing, maintaining, servicing, and repairing the tangible personal property specified as exempt in paragraph (1) of this subdivision are excluded from the State and local sales and compensating use taxes. [However, this exclusion does not apply to the sales and compensating use taxes imposed in New York City under section 1107 of the Tax Law.] (See section 527.5 of this Title for rules pertaining to installing, maintaining, servicing, and repairing tangible personal property.)

Section 2. Example 2 in subdivision (a) of section 528.7 of such regulations is REPEALED, and Example 1 of such subdivision is amended to read as follows:

“Example [1]:” A farmer (or an operator of a commercial horse boarding operation) [located in an upstate county] in this State has a tractor repaired. The tractor is used predominantly in farm production (or in a commercial horse boarding operation). The charge for materials is \$100, and the charge for labor is \$50. The farmer gives the vendor a timely filed and properly completed exemption certificate and is not required to pay

the New York State and local sales and compensating use taxes on the total charge for materials and labor. It does not matter whether the vendor's invoice separately states the charges for the materials and labor[,] since neither is subject to tax.

Dated: Albany, New York
May 13, 2009

Robert L. Megna
Commissioner of Taxation and Finance