



Department of Taxation and Finance

TAXPAYER GUIDANCE DIVISION

July 9, 2015

New Jersey Transit Rail Operations
One Penn Plaza East
Newark NJ 07105-2246

Dear Ladies and Gentlemen:

We have received your letter dated July 9, 2015 in which you request a certificate of exemption from New York State and Local Sales and Use Tax.

Pursuant to amendments made to Section 336, Section 501(C) of the Rail Passengers Service Act (45 U S C 581(c)) stating "Notwithstanding any other provision of law, any commuter authority that could have contracted with Amtrak Commuter for the provision of commuter service but which elected to operate directly its own commuter service as of January 1, 1983, shall be exempt from the payment of any taxes or other fees to the same extent as the Corporation is exempt. Such exemption shall be effective as of October 1, 1981".

Such amendment makes state commuter rail authorities that elect to operate directly their own commuter service, in lieu of contracting for such service with Amtrak Commuter, exempt from state and local taxes to the same extent that Amtrak is exempt from such taxes. Amtrak has been held by this department to be exempt from sales and use tax, in accordance with Section 306 of the Rail Passenger Service Act and Public Law 97-257. See the enclosed Taxpayer Guidance Division (f/k/a Technical Services Bureau) Memorandum TSB-M-82(32)S on this matter. The information presented discloses that New Jersey Transit Rail Operations has elected to operate directly its own commuter service and it is, therefore, exempt from New York State and Local Sales and Use Tax.

Despite the following, we are unable to issue your entity a tax exemption number since such numbers are issued solely to non-profit organizations exempt under section 1116(a) of the Tax Law. However, the New Jersey Transit Rail Operations may make tax free purchases by presenting vendors with a copy of this letter.

Best Regards,

A handwritten signature in black ink, appearing to read "Tammy McGill".

Tammy McGill
Sales Tax Technician
Sales Tax Exempt Organizations Unit
518-530-4132

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-M-82(32)S
Sales Tax
December 30, 1982

Taxable Status of Conrail (Consolidated Rail Corporation)
and Amtrak (National Railroad Passenger Corporation)

CONRAIL

The Omnibus Budget Reconciliation Act of 1981, approved and effective August 13, 1981 amended the Regional Rail Reorganization Act of 1973 to provide Conrail the following exemption:

Effective August 13, 1981, Conrail is granted exemption from the sales tax imposed statewide including any state imposed local taxes (New York City-section 1107, and the metropolitan commuter transportation district-section 1109). Conrail is, however, still subject to any other local sales taxes imposed by a political subdivision of the state (city, county, school district, etc.) including such taxes imposed by New York City under section 1212-A of the Tax Law.

Consequently, vendors making sales to Conrail in any taxing Jurisdiction where such local taxes are imposed are required to collect the local taxes due on a transaction, unless a properly completed exemption document is presented.

AMTRAK

Section 306 of the Rail Passenger Service Act (Omnibus Budget Reconciliation Act of 1981) and Public Laws 97-102, and 97-257 have granted Amtrak the following relief from payment of sales taxes:

Section 306 of the Rail Passenger Service Act

October 1, 1981 through November 22, 1981 - no state and local sales taxes due on expenditures made to acquire or improve real property, facilities, equipment or right of way materials or structures used directly or indirectly in the provision of rail passenger service.

Public Law 97-102

November 23, 1981 through September 30, 1982 - a preclusion from paying taxes (including state and local sales taxes) for the balance of the fiscal year on expenditures made for any purpose. Any taxes due for any period prior to November 23, 1981 but unpaid, could not be paid until after the end of the fiscal year.

Public Law 97-257

October 1, 1981 and thereafter - no sales taxes payable on any expenditures made on or after that date. Any taxes that were due for the period from October 1, 1981 through November 22, 1981 are no longer payable. Taxes due from the period prior to October 1, 1981 remain due and payable.

Note:

By making the last enactment (Public Law 97-257) retroactive to October 1, 1981 the partial exemption originally granted under section 306 has been expanded to a total exemption as of the beginning of the fiscal year. This does not affect the period prior to October 1, 1981.

The preclusion from paying tax (Public Law 97-102) expired as of September 30, 1982, making it possible for Amtrak to pay any taxes that were due from prior periods. However, since the preclusion was replaced by an exemption effective October 1, 1981, the only sales taxes that must now be paid are the sales taxes that were due on purchases made prior to October 1, 1981 that were not covered by the original exemption (see section 306 of the Rail Passenger Service Act).

Any vendor who has made sales to Amtrak during the period October 1, 1981 through November 22, 1981 and has paid sales tax to the Department of Taxation and Finance on such sales but never collected the tax from Amtrak, may file with the department for a credit or refund.

The wholly owned subsidiary known as Amtrak Commuter Service shall be exempt from sales tax to the same extent as the National Railroad Passenger Corporation (Amtrak).