

**ADDENDUM TO MEMORANDUM IN SUPPORT
FOR S. 6295/A. 9295**

Part T. Sales Tax Exemption for Emission Testing Equipment. This bill will provide a State and local sales and use tax exemption or refund/credit for certain heavy duty diesel vehicle emissions testing equipment.

Summary of Provisions: Effective June 1, 2000, bill section one would amend section 1115(a)(31) of the Tax Law to exempt test equipment certified by the NYS DEC under regulations adopted pursuant to the authority of Environmental Conservation Law (ECL) section 19-0320, where such equipment is predominantly used to test exhaust emissions of heavy duty diesel vehicles as described in such regulations.

Bill section two would allow a refund or credit of sales and use taxes paid on purchases or uses of test equipment that would have been exempt had it been purchased on or after the bill's effective date, where such equipment is purchased or used prior to the date that the exemption is available. Refunds and credits would be administered under existing provisions of section 1139 of the Tax Law, which governs refunds and credits of such taxes in general.

Bill section three provides that the bill would be effective on June 1, 2000. The exemption in bill section two would be governed by the usual sales and use tax transition clause. Bill section three would apply to transactions occurring prior to June 1, 2000.

Existing Law: Section 1115(a)(31) of the Tax Law currently exempts from State and local sales and use taxes only certified vehicle enhanced emissions inspection equipment under an enhanced emissions inspection and maintenance program for certain vehicles as required by federal law. Such equipment does not include the equipment to be exempted under this bill.

ECL section 19-0320 established a testing program for emissions of heavy duty diesel vehicles, but no exemption exists for the certified testing equipment required to be used to perform such tests under such regulations. The Department of Environmental Conservation promulgated 6 NYCRR Subpart 217-5 to implement such testing program. Regulation section 217-5.6 describes the certified test equipment which would be exempt under the bill. There are five types of smokemeters certified by NYS DEC under such section 217-5.6. Three of the five include internal memory chips to comply with a regulatory requirement to store the most recent 50 test results. The other two types of smokemeters are typically connected to personal computers to comply with such requirement. The personal computers would not be exempt under the bill unless they are used more than 50 percent of the time solely to store such 50 test results.

Prior Legislative History: This is a new proposal.

Statement in Support: Currently, light duty vehicle emission testing equipment is exempt from sales tax. Heavy duty (trucks and buses) emission testing equipment is not. A sales and use tax exemption would provide a further incentive for service

stations to purchase this equipment and test heavy duty vehicles, especially in the upstate area. Providing a refund or credit of tax paid on purchases of such equipment prior to June 1, 2000, would ensure that certified inspectors who purchase eligible equipment prior to the exemption's effective date are not disadvantaged as compared to those who purchase such equipment after the exemption is available.

Budget Implications: This bill has an annual fiscal cost of \$1 million, which is assumed in the 2000-01 financial plan.

Effective Date: This act shall take effect June 1, 2000.