

New York State and Local Sales and Use Tax Contractor Exempt Purchase Certificate

To be used **only** by contractors who are registered with the Tax Department for sales tax purposes.

To vendors:

You must collect tax on any sale of taxable property or services unless the contractor gives you a properly completed exempt purchase certificate not later than 90 days after the property is sold or service is rendered. In addition, you must keep the certificate for at least three years, as explained in the instructions.

To contractors and vendors: read the instructions on pages 3 and 4 carefully before completing or accepting this certificate.

Name of vendor	Name of purchasing contractor
Street address	Street address
City State ZIP code	City State ZIP code

1. I have been issued a New York State *Certificate of Authority*, _____, to collect
(enter your sales tax vendor identification number)
New York State and local sales and use tax, and that certificate has not expired or been suspended or revoked.

2. The tangible personal property or service being purchased will be used on the following project:

located at _____

for and with _____

pursuant to prime contract dated _____.

3. These purchases are exempt from sales and use tax because:

(Mark an X in the appropriate box; for further explanation, see items A through P in the instructions on pages 3 and 4.)

A. The tangible personal property will be used in the above project to create a building or structure or to improve real property or to maintain, service, or repair a building, structure, or real property, owned by an organization exempt under section 1116(a) of the Tax Law. *(For example, New York State government entities, United States governmental entities, United Nations and any international organization of which the United States is a member, certain posts or organizations of past or present members of the armed forces, and certain nonprofit organizations and Indian nations or tribes that have received New York State sales tax exempt organization status).* The tangible personal property will become an integral component part of such building, structure, or real property.

B. The tangible personal property is production machinery and equipment, and it will be incorporated into real property.

C. The tangible personal property will be used:

- in an Internet data center; or
- directly and predominantly in connection with telecommunications services for sale or Internet access services for sale; or
- directly and predominantly by a television or radio broadcaster in connection with producing or transmitting live or recorded programs.

D. The tangible personal property, including production machinery and equipment, is for installation in the above project and will remain tangible personal property after installation.

E. The tangible personal property will be used predominantly either in farm production or in a commercial horse boarding operation, or in both.

F. The machinery or equipment will be used directly and predominantly to control, prevent, or abate pollution or contaminants from manufacturing or industrial facilities.

Note: This certificate is not valid unless the purchaser completes the certification on page 2.

- G.** The tangible personal property will be used to erect, add to, improve, repair, maintain, or service a building, structure, or real property owned by a qualified empire zone enterprise (QEZE), and will become an integral component part of such building, structure, or real property. (**Note:** Item G purchases are exempt from the 4% New York State tax rate and from the 3/8% Metropolitan Commuter Transportation District (MCTD) rate. Item G purchases **may** be exempt from local taxes. See instructions.)
- H.** The tangible personal property is residential solar energy systems equipment. (**Note:** Item H purchases are exempt from the 4% New York State tax rate and from the 3/8% MCTD rate. Item H purchases may be exempt from local taxes. See instructions.)
- I.** The tangible personal property will be used directly and exclusively in adding to, altering, or improving a qualifying tenant's leased premises for use as commercial office space in Eligible Area A or B as described in TSB-M-05(12)S, *Tangible Personal Property Purchased for Leased Commercial Office Space in Lower Manhattan*, provided that the tangible personal property becomes an integral component part of the building in which the leased premises are located, and where such property is purchased during the first year of the qualifying tenant's lease and delivered to the leased premises no later than 90 days after the end of that first year.
- J.** The tangible personal property is machinery or equipment used directly and predominantly in loading, unloading, and handling cargo at a qualified marine terminal facility in New York City. This exemption does **not** apply to the 4% local tax in New York City.
- K.** The services are for the project described in line 2 on page 1 and will be resold. (This includes trash removal services in connection with repair services to real property.)
- L.** The trash removal service being performed for the project described is in connection with a capital improvement to the real property of an organization exempt under section 1116(a) of the Tax Law.
- M.** The services are to install, maintain, service, or repair tangible personal property used in an Internet data center, for telecommunication or Internet access services, or for radio or television broadcast production or transmission.
- N.** The services are to install, maintain, service, or repair tangible personal property that will be used predominantly either in farm production or in a commercial horse boarding operation, or in both.
- O.** The services are to install residential solar energy systems equipment.
- P.** The services are to install tangible personal property purchased during the first year of the qualifying tenant's lease and delivered to the leased premises no later than 90 days after the end of that first year, that will be used directly and exclusively in adding to, altering, or improving a qualifying tenant's leased premises for use as commercial office space in Eligible Area A or B as described in TSB-M-05(12)S, *Tangible Personal Property Purchased for Leased Commercial Office Space in Lower Manhattan*.

Caution: Contractors may **not** use this certificate to purchase services exempt unless the services are resold to customers in connection with a project. Construction equipment, tools, and supplies purchased or rented for use in completing a project but that do not become part of the finished project may not be purchased exempt from tax through the use of this certificate.

Certification: I certify that the above statements are true and complete, and I make these statements with the knowledge that willfully issuing a false or fraudulent certificate, with the intent to evade tax, is a misdemeanor under section 1817(m) of the New York State Tax Law and Section 210.45 of the Penal Law, punishable by a fine of up to \$10,000 for an individual or \$20,000 for a corporation. I also understand that the Tax Department is authorized to investigate the validity of exemptions claimed or the accuracy of any information entered on this form.

Type or print name and title of owner, partner, etc., of purchasing contractor	
Signature of owner, partner, etc.	Date prepared

Substantial penalties will result from misuse of this certificate.

Instructions

Only a contractor who has a valid *Certificate of Authority* issued by the Tax Department may use this exempt purchase certificate. The contractor must present a properly completed certificate to the vendor to purchase tangible personal property, or to a subcontractor to purchase services tax exempt. This certificate is not valid unless all entries have been completed.

The contractor may use this certificate to claim an exemption from sales or use tax on tangible personal property or services that will be used in the manner specified in items A through P below. The contractor may not use this certificate to purchase tangible personal property or services tax exempt on the basis that Form ST-124, *Certificate of Capital Improvement*, has been furnished by the project owner to the contractor. The contractor must use a separate Form ST-120.1, *Contractor Exempt Purchase Certificate*, for each project.

Purchase orders showing an exemption from the sales or use tax based on this certificate must contain the address of the project where the property will be used, as well as the name and address of the project owners (see page 1 of this form). Invoices and sales or delivery slips must also contain this information (name and address of the project for which the exempt purchases will be used or where the exempt services will be rendered, as shown on page 1 of this form).

Use of the certificate

This certificate may be used by a contractor to claim exemption from tax only on purchases of **tangible personal property** that is:

- A. Incorporated into real property under the terms of a contract entered into with an exempt organization that has furnished the contractor with a copy of Form ST-119.1, *Exempt Organization Exempt Purchase Certificate*, governmental purchase order, or voucher.
- B. Incorporated into real property and is production machinery or equipment for which the customer has given the contractor a copy of Form ST-121, *Exempt Use Certificate*.
- C. Used in one of the following situations:
 - Machinery, equipment, and other tangible personal property related to providing Web site services for sale to be installed in an Internet data center. (Examples of qualifying machinery, equipment, and tangible personal property include: computer system hardware, pre-written software, storage racks for computers, property relating to building systems designed for an Internet data center such as interior fiber optic and copper cable, property necessary to maintain the proper temperature and environment such as air filtration and air conditioning, property related to fire control, power generators, protective barriers, property that when installed will constitute raised flooring, and property related to providing security to the center.) The customer must furnish the contractor a completed Form ST-121.5, *Exempt Use Certificate for Operators of Internet Data Centers (Web Hosting)*.
 - Used directly and predominantly in the receiving, initiating, amplifying, processing, transmitting, re-transmitting, switching, or monitoring of switching of telecommunications services for sale, or Internet access service for sale.
 - Machinery, equipment, and other tangible personal property (including parts, tools, and supplies) used by a television or radio broadcaster directly and predominantly in the production and post-production of live or recorded programs used by a broadcaster predominantly for broadcasting by the broadcaster either over-the-air or for transmission through a cable television or direct broadcast satellite system. (Examples of exempt machinery and equipment include cameras, lights, sets, costumes, and sound equipment.) This exemption also includes machinery, equipment, and other tangible personal property used by a broadcaster directly and predominantly to transmit live or recorded programs. (Examples of exempt machinery and equipment include amplifiers, transmitters, and antennas.)
- D. Installed or placed in the project in such a way that it remains tangible personal property after installation. The contractor must collect tax from its customer when selling such tangible personal property or related services to the customer, unless the customer gives the contractor an appropriate and properly completed exemption certificate.
- E. Used predominantly (more than 50%) either in farm production or in a commercial horse boarding operation, or in both, for which the customer has provided the contractor a completed Form ST-125, *Farmer's and Commercial Horse Boarding Operator's Exemption Certificate*. The exemption is allowed on tangible personal property whether or not the property is incorporated into a building or structure.
- F. Machinery or equipment used directly and predominantly to control, prevent, or abate pollution or contaminants from manufacturing or industrial facilities.
- G. Incorporated into a building, structure, or real property located in the empire zone in which the qualified empire zone enterprise (QEZE) has qualified for tax benefits. The exemption is allowed on the 4% New York State tax rate and on the $\frac{3}{8}\%$ MCTD rate. The exemption does not apply to Municipal Assistance Corporation (MAC) taxes in New York City, or to county, city, or school district taxes, unless New York City or the county, city, or school district elects the exemption. In that case, purchases are exempt from the full, combined New York State and local tax rate. See Publication 718-Q, *Local Sales and Use Tax Rates on Sales to a Qualified Empire Zone Enterprise (QEZE)*, for a listing of sales tax rates pertaining to the QEZE exemption. The customer must furnish the contractor a completed Form ST-121.6, *Qualified Empire Zone Enterprise (QEZE) Exempt Purchase Certificate*.
- H. Residential solar energy systems equipment. *Residential solar energy systems equipment* means an arrangement of or combination of components installed in a residence that utilizes solar radiation to produce energy designed to provide heating, cooling, hot water, and/or electricity. The exemption is allowed on the 4% New York State tax rate and where applicable, the $\frac{3}{8}\%$ MCTD rate. The exemption does not apply to local taxes unless the locality specifically enacts the exemption. **Note:** No local exemption may be effective before December 1, 2005. The customer must furnish the contractor with a completed Form ST-121, *Exempt Use Certificate*, by completing the box marked *other* (U). For the definition of *residence* and for an exception relating to recreational equipment used for storage, as well as for other pertinent information, see TSB-M-05(11)S, *Sales and Use Tax Exemption for Residential Solar Energy Systems Equipment*.
- I. Delivered and used directly and exclusively in adding to, altering, or improving a qualifying tenant's leased premises for use as commercial office space in Eligible Area A or B as described in TSB-M-05(12)S, *Tangible Personal Property Purchased for Leased Commercial Office Space in Lower Manhattan*, provided that the tangible personal property becomes an integral component part of the building in which the leased premises are located, and where such property is purchased within the first year of the qualifying tenant's lease.

J. Machinery and equipment used at qualified marine terminal facilities located in New York City. The machinery and equipment must be used directly and predominantly in loading, unloading, and handling cargo at marine terminal facilities located in New York City that handled more than 350,000 twenty foot equivalent units (TEUs) in 2003. For purposes of this exemption, the term *TEU* means a unit of volume equivalent to the volume of a twenty-foot container. This exemption does **not** apply to the 4% local tax in New York City.

This certificate may also be used by a contractor to claim exemption from tax on the following **services**:

K. Installing tangible personal property, including production machinery and equipment, that does not become a part of the real property upon installation.

Repairing real property, when the services are for the project named on page 1 of this form and will be resold.

Trash removal services rendered in connection with repair services to real property, if the trash removal services will be resold.

Note: Purchases of services for resale can occur between prime contractors and subcontractors or between two subcontractors. The retail seller of the services, generally the prime contractor, must charge and collect tax on the contract price, unless the project owner gives the retail seller of the service a properly completed exemption certificate.

L. Trash removal services purchased by a contractor and rendered in connection with a capital improvement to an exempt organization's property.

M. Installing, maintaining, servicing, or repairing tangible personal property used for Web hosting, telecommunication or Internet access services, or by a broadcaster (described in C on page 3).

N. Installing, maintaining, servicing, or repairing tangible personal property that will be used predominantly either in farm production or in a commercial horse boarding operation, or in both (described in E on page 3).

O. Installing residential solar energy systems equipment (described in H on page 3).

P. Installing tangible personal property delivered to and used directly and exclusively in adding to, altering, or improving a qualifying tenant's leased premises for use as commercial office space in Eligible Area A or B as described in TSB-M-05(12)S, *Tangible Personal Property Purchased for Leased Commercial Office Space in Lower Manhattan*,

provided that the tangible personal property becomes an integral component part of the building in which the leased premises are located.

To the purchaser

Warning for misuse of this form

Any person who intentionally issues a false Form ST-120.1, *Contractor Exempt Purchase Certificate*, to evade sales and compensating use tax may be assessed for the tax evaded, and will be subject to a penalty of 100% of the tax due and a penalty of \$50 for each such certificate issued. The purchaser will also be guilty of a misdemeanor punishable by a fine not to exceed \$10,000 (\$20,000 for a corporation). Other penalties may also apply.

In addition, your *Certificate of Authority*, allowing you to make certain tax-free purchases, may be revoked, prohibiting you from conducting any business in New York State for which a *Certificate of Authority* is required.

To the vendor

Do not accept this Form ST-120.1, *Contractor Exempt Purchase Certificate*, unless all entries have been completed. The contractor must give you a properly completed exemption certificate **no later than 90 days after delivery** of the property or service; otherwise, the sale will be deemed to have been taxable at the time the transaction took place. When a certificate is received after the 90-day period, both the seller (vendor) and contractor assume the burden of proving that the sale was exempt, and both may have to provide additional substantiation.

Your failure to collect sales or use tax, as a result of accepting an improperly completed exemption certificate or receiving the certificate more than 90 days after the sale, will make you personally liable for the tax plus any penalty and interest charges due.

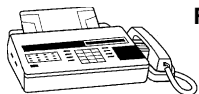
You must keep this exemption certificate for at least three years after the due date of the last return to which it relates, or after the date when the return was filed, if later. You must also maintain a method of associating an exempt sale made to a particular customer with the exemption certificate you have on file for that customer.

Caution: You will be subject to additional penalties if you sell tangible personal property or services subject to tax, or purchase or sell tangible personal property for resale, without possessing a valid *Certificate of Authority*. In addition to the criminal penalties imposed under the New York State Tax Law, you will be subject to a penalty of up to \$500 for the first day on which such a sale or purchase is made, plus up to \$200 for each subsequent day on which such a sale or purchase is made, up to the maximum allowed.

Need help?



Internet access: www.nystax.gov
(for information, forms, and publications)



Fax-on-demand forms: Forms are available 24 hours a day, 7 days a week. 1 800 748-3676



Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.
To order forms and publications: 1 800 462-8100
Business Tax Information Center: 1 800 972-1233
From areas outside the U.S. and outside Canada: (518) 485-6800



Hotline for the hearing and speech impaired:

If you have access to a telecommunications device for the deaf (TDD), contact us at 1 800 634-2110. If you do not own a TDD, check with independent living centers or community action programs to find out where machines are available for public use.



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.