Department of Taxation and Finance

New York State and Local Sales and Use Tax

Contractor Exempt Purchase Certificate

ST-120.1
(5/24)

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.

This form cannot be used to purchase motor fuel or diesel motor fuel exempt from tax.

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

Name of seller			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 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 S 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 Tax Law section 1116(a). (*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 when the property is to be incorporated as part of a capital improvement; 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 become an integral component part of a building, structure, or real property, used predominantly (more than 50%) either in the production phase of farming or in a commercial horse boarding operation, or in both.

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

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

☐ **G.** The tangible personal property is residential or commercial solar energy systems equipment. (**Note:** Item G purchases are exempt from the 4% New York State tax rate and from the ⅜% MCTD rate. Item G purchases may be exempt from local taxes. See instructions.)

☐ **H.** 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, *Sales and Use Tax Exemptions on Certain Purchases of Tangible Personal Property and Services 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.

☐ **I.** 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 local tax in New York City.

☐ **J.** The tangible personal property is commercial fuel cell systems equipment. (**Note:** Item J purchases are exempt from the 4% New York State tax rate and from the ⅜% MCTD rate. Item J purchases may be exempt from local taxes. See instructions.)

☐ **K.** The tangible personal property will be used in a project for an exempt Housing Development Fund Corporation (HDFC).

☐ **L.** The tangible personal property is residential energy storage systems equipment. See instructions.

☐ **M.** 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.)

☐ **N.** 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.

☐ **O.** 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 provided such tangible personal property will become an integral component part of such structure, building, or real property.

☐ **P.** The services are to install residential or commercial solar energy systems equipment.

☐ **Q.** 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.

☐ **R.** The services are to install or maintain commercial fuel cell systems equipment.

☐ **S.** The services are to install residential energy storage systems equipment.

Caution: Contractors may **not** use this certificate to purchase services tax 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, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence. I understand that this document is required to be filed with, and delivered to, the vendor as agent for the Tax Department for the purposes of Tax Law section 1838 and is deemed a document required to be filed with the Tax Department for the purpose of prosecution of offenses. I also understand that the Tax Department is authorized to investigate the validity of tax exclusions or exemptions claimed and the accuracy of any information entered on this document.

Type or print name and title of owner, partner, or authorized person of purchasing contractor	
Signature of owner, partner, or authorized person of purchasing contractor	Date prepared

Substantial penalties will result from misuse of this certificate.

Instructions

To the purchasing contractor

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 S 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

Note: Unless otherwise stated, the customer must furnish the contractor a properly completed Form ST-121, *Exempt Use 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. Production machinery or equipment that will be incorporated into real property.

C. Used in one of the following situations:

- Machinery, equipment, and other tangible personal property related to providing website services for sale to be installed in an Internet data center when the property is to be incorporated as part of a capital improvement. 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. Going to become an integral component part of a structure, building, or real property used predominantly (more than 50%) either in the production phase of farming 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.*

F. Machinery or equipment used directly and predominantly to control, prevent, or abate pollution or contaminants from manufacturing or industrial facilities.

G. Residential or commercial solar energy systems equipment. *Residential solar energy systems equipment* means an arrangement 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. *Commercial solar energy systems equipment* means an arrangement or combination of components installed upon nonresidential premises that utilize solar radiation to produce energy designed to provide heating, cooling, hot water, or electricity. The exemption is allowed on the 4% New York State tax rate and where applicable, the ⅜% MCTD rate. The exemption does not apply to local taxes unless the locality specifically enacts the exemption. The customer must furnish the contractor a completed Form ST-121 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*. For the definition of *nonresidential premises*, as well as other pertinent information, see TSB-M-12(14)S, *Sales and Use Tax Exemption for the Sales and Installation of Commercial Solar Energy Systems Equipment.*

H. 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, *Sales and Use Tax Exemptions on Certain Purchases of Tangible Personal Property and Services 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.

I. 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 local tax in New York City.

J. Commercial fuel cell systems equipment. *Commercial fuel cell systems equipment* means an electric generating arrangement or combination of components that is installed upon nonresidential premises and utilizes solid oxide, molten carbonate, a proton exchange membrane, phosphoric acid, or a linear generator to provide heating, cooling, hot water, or electricity. The exemption is allowed on the 4% New York State tax rate and the ⅜% MCTD rate, if applicable. The exemption does not apply to local taxes unless the locality specifically enacts the exemption. The customer must furnish the contractor a completed Form ST-121 by completing the box marked *Other* (U.). See TSB-M-16(3)S, *Sales and Use Tax Exemptions Related to Commercial Fuel Cell Systems Equipment,* for more information.

K. For use in a project for an exempt HDFC that has furnished the contractor with a copy of the exemption letter issued to them by the Tax Department.

L. Residential energy storage systems equipment. *Residential energy storage systems equipment* means an arrangement or combination of components installed in a residence that stores electricity for use at a later time to provide heating, cooling, hot water, or electricity. The exemption is for the state, local, and MCTD sales and use tax rates. The customer must furnish the contractor a completed Form ST-121 by completing the box marked *Other* (U.). See TSB-M-24(1)S, *Sales and Use Tax Exemption for Residential Energy Storage Systems Equipment,* for more information.

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

M. 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.

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

O. 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 item E on page 3).

P. Installing qualifying residential or commercial solar energy systems equipment (described in item G on page 3).

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

R. Installing or maintaining commercial fuel cell systems equipment (described in item J above).

S. Installing residential energy storage systems equipment (described in item L above).

Misuse of this certificate

Misuse of this exemption certificate may subject you to serious civil and criminal sanctions in addition to the payment of any tax and interest due. These include:

- a penalty equal to 100% of the tax due;
- a $50 penalty for each fraudulent exemption certificate issued;
- criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
- revocation of your *Certificate of Authority*, if you are required to be registered as a vendor. See TSB-M-09(17)S, *Amendments that Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*, for more information.

To the seller

When making purchases that qualify for exemption from sales and use tax, the contractor must provide you with this exemption certificate with all entries completed to establish the right to the exemption.

As a New York State registered vendor, you may accept an exemption certificate in lieu of collecting tax and be protected from liability for the tax if the certificate is valid. The certificate will be considered valid if it is:

- accepted in good faith;
- in your possession within 90 days of the transaction; and
- properly completed (all required entries were made).

An exemption certificate is accepted in good faith when you have no knowledge that the exemption certificate is false or is fraudulently given, and you exercise reasonable ordinary due care. If you do not receive a properly completed certificate within 90 days after the delivery of the property or service, you will share with the purchaser the burden of proving the sale was exempt.

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 maintain a method of associating an invoice (or other source document) for an exempt sale with the exemption certificate you have on file from the purchaser. You must also keep this certificate at least three years after the due date of your sales tax return to which it relates, or the date the return was filed, if later.

Need help?

Visit our website at ***www.tax.ny.gov***

- get information and manage your taxes online
- check for new online services and features

Telephone assistance:	518-485-9863
To order forms and publications:	518-457-5431
Text Telephone (TTY) or TDD equipment users	Dial 7-1-1 for the New York Relay Service