

# Contractor Exempt Purchase Certificate

## New York State and Local Sales and Use Tax

To be used **only** by contractors who are registered as New York State sales tax vendors

**To vendors:**

You must collect tax on a sale of taxable property or services unless the contractor gives you a properly completed exemption 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 the back carefully before completing or accepting this certificate.

**This certificate is not valid unless all entries are completed and the appropriate box is checked.**

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 this 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  
 (description of project)

\_\_\_\_\_ pursuant to prime contract dated \_\_\_\_\_  
 (address of project)

for and with \_\_\_\_\_  
 (name and address of owner)

3 These purchases are exempt from sales and use tax because:  
 (Check appropriate box; for further explanation, see items a through g on back.)

- a. The tangible personal property is for incorporation into the above project for an organization exempt under section 1116(a) of the Tax Law (New York State governmental entities, United States governmental entities, United Nations and certain international organizations of which the United States is a member, and certain nonprofit organizations and Indian nations and tribes that have received New York State exempt organization status).
- b. The tangible personal property is production machinery and equipment, and will be incorporated into real property.
- c. The tangible personal property, including any production machinery and equipment, is for installation within the above project and will remain tangible personal property after installation.
- d. The tangible personal property, including foundation materials, will become an integral component part of a silo used in farming for sale.
- e. The tangible personal property is posts and wire that will be used to make or maintain trellises used directly and predominantly in the production of grapes for sale.
- f. The tangible personal property qualifies as alternative fuel vehicle refueling property.
- g. The services are for the above project and will be resold.
- h. The trash removal service being performed for the above project is in connection with a capital improvement to the real property of an organization exempt under section 1116(a) of the Tax Law.
- i. The services are to install qualifying alternative fuel vehicle refueling property.

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

I certify that the above statements are true and complete.

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 form. The contractor must present it to the vendor to purchase tangible personal property, or to a subcontractor to purchase services tax exempt. This certificate is not valid until 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 **i** 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. A separate Form ST-120.1, *Contractor Exempt Purchase Certificate*, must be used for each project.

Tangible personal property for which an exemption is claimed must be physically incorporated into the project identified on the front of this certificate.

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 front 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 front of this form).

### Use of the certificate

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

- a.** Incorporated into real property under the terms of a contract entered into with an organization that has furnished the contractor with a copy of Form ST-119.1, *Exempt Organization Certification*, governmental purchase order, or voucher.
- b.** Incorporated into real property and its production machinery or equipment for which the customer has given the contractor Form ST-121, *Exempt Use Certificate*.
- c.** Installed or placed in the project in such a way as to remain tangible personal property after installation. State and local sales tax must be collected from the contractor's customer on both the sale of tangible personal property and the charges for installation, unless the contractor is installing production machinery or equipment and is given the exemption Form ST-121, *Exempt Use Certificate*. In that instance, the contractor is not required to collect any state or local tax on the tangible personal property, but must collect the local tax that applies to the charges for installation.
- d.** Used in erecting, adding to, altering, or improving a silo, including the silo's foundation, used to make and store silage on a farm, provided the tangible personal property is to become an integral part of the silo.
- e.** Posts and wire for use in constructing or maintaining trellises used directly and predominantly in growing grapes for sale.
- f.** Alternative fuel vehicle refueling property used predominantly for:
  - (1) the storage or dispensing of alcohol, natural gas, propane, or hydrogen into the fuel tank of an alternative fuel vehicle, but only if the storage or dispensing of the fuel is at the point where such fuel is delivered into the fuel tank of such a vehicle; or
  - (2) the recharging of an electric vehicle, but only if the property is located at the point where such vehicle is recharged. The property must be subject to an allowance for depreciation and its original use must begin with the purchaser.

This certificate may also be used by a contractor only to claim exemption from tax on **services** that are:

- g.** To install tangible personal property that does not become a part of the real property upon installation; or to repair real property, when the services are for the project named on the front of this form and will be resold; or both.
- 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 owners give the retail seller of the service a properly completed exemption certificate.

- h.** Trash removal services purchased by a contractor and rendered in connection with a capital improvement to an exempt organization's property.
- i.** To install qualified alternative fuel vehicle refueling property (described in **f.** above).

### To the purchaser

#### Warning for misuse of this form

Any person who intentionally issues a false exemption 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 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 days, both the seller (vendor) and contractor assume the burden of proving that the sale was exempt, and may have to provide additional substantiation.

Your failure to collect sales 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 the sale or purchase is made, plus an amount up to \$200 for each subsequent day on which the sale or purchase is made, up to the maximum allowed.

### Need Help?

**Telephone Assistance** is available from 8:30 a.m. to 4:25 p.m., Monday through Friday. **For business tax information and forms**, call the Business Tax Information Center at 1 800 972-1233. **For general information**, call toll free 1 800 225-5829. **To order forms and publications**, call toll free 1 800 462-8100. **From areas outside the U.S. and Canada**, call (518) 485-6800.

**Fax-on-Demand Forms Ordering System** - Most forms are available by fax 24 hours a day, 7 days a week. Call toll free from the U.S. and Canada 1 800 748-3676. You must use a Touch Tone phone to order by fax. A fax code is used to identify each form.

**Internet Access** - <http://www.tax.state.ny.us>  
Access our website for forms, publications, and information.

**Hotline for the Hearing and Speech Impaired** - If you have access to a telecommunications device for the deaf (TDD), you can get answers to your New York State tax questions by calling toll free from the U.S. and Canada 1 800 634-2110. Assistance is available from 8:30 a.m. to 4:15 p.m., Monday through Friday. 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 the information numbers listed above.

**Mailing Address** - If you need to write, address your letter to: NYS Tax Department, Taxpayer Assistance Bureau, W A Harriman Campus, Albany NY 12227.