



To be completed by the purchaser and given to the seller

Read instructions on back before completing or accepting this form

# Exempt Use Certificate

Name of seller			Name of purchaser		
Street address			Street address		
City	State	ZIP code	City	State	ZIP code
Check one: <input type="checkbox"/> Single-purchase certificate <input type="checkbox"/> Blanket certificate			Purchaser's <i>Certificate of Authority</i> number		

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

This purchase I am making is exempt from state and local sales and use taxes because the property or services will be used for the exempt purpose indicated below. (Check the box next to the exemption you are claiming)

**Part I — Production exemptions**

(a) Machinery and equipment, parts, tools, and supplies used or consumed in the production of tangible personal property for sale or in the production of gas, electricity, steam, or refrigeration utility services for sale.

(b) Tangible personal property used or consumed in providing telecommunications or Internet access services for sale. (See instructions for details on exempt uses.)

(c) Machinery, equipment, parts, tools, and supplies (1) used or consumed to upgrade cable television systems to provide digital cable television service for sale, or (2) used by a cable television service company to provide Internet access services for sale. (This exemption expires September 1, 2003.)

(d) Machinery, equipment, parts, tools and supplies used by radio or tv broadcasters in the production of live or recorded programs, or in the transmission of live or recorded programs for over-the-air broadcast (including through a cable television or direct-broadcast satellite system).

(e) Purchases of gas or electricity or gas or electric service used to operate a gas pipeline, an electric transmission line, or gas or electric distribution lines.

(f) Purchases of (check one or more boxes):  fuel  gas  electricity  refrigeration  steam  gas, electric, refrigeration or steam services for use or consumption in the production of tangible personal property for sale.

**Paragraph (a) - (f) purchases are exempt from all state and local sales and use taxes.**

(g) Purchases of (check one or more boxes):  fuel  gas  electricity  refrigeration  steam  gas, electric, refrigeration or steam services for use or consumption in the production of gas, electricity, refrigeration, or steam for sale.

**Paragraph (g) purchases are exempt from all state and local taxes when delivered or used outside New York City, but subject to New York City local sales and use tax when delivered or used in New York City.**

**Part II — Exemptions for services to exempt machinery and equipment (exempt from all state and local sales and use taxes)**

- (h) Installing, repairing, maintaining, or servicing of:
  - machinery or equipment, including parts, tools, and supplies used directly and predominantly in production of tangible personal property, gas, electricity, refrigeration, or steam for sale;
  - tangible personal property used directly and predominantly in the receiving, initiating, amplifying, processing, transmitting, re-transmitting, switching, or monitoring of telecommunications services for sale, or Internet access services for sale;
  - machinery, equipment, and apparatus (including parts, tools, and supplies used in connection with such machinery, equipment, and apparatus) used directly and predominantly to upgrade cable systems so they are capable of providing digital cable television service for sale (The cable and Internet access upgrade exemption expires September 1, 2003.); or
  - machinery, equipment, and other tangible personal property (including parts, tools and supplies) used by a broadcaster directly and predominantly in the production of live or recorded programs for broadcast or in the transmission of live or recorded programs through a cable television or direct-broadcast satellite system.

**Part III - Other exemptions - exempt from all sales and use taxes**

(i) Tangible personal property used or consumed directly and predominantly in research and development in the experimental or laboratory sense.

(j) Purchases of (check one or more boxes):  gas  electricity  refrigeration  steam and  gas, electric, refrigeration or steam service for use or consumption directly and exclusively in research and development in the experimental or laboratory sense.

(k) Cartons, containers, and other wrapping and packaging materials and supplies used by a vendor to package tangible personal property for sale and actually transferred to the purchaser of the property.

(l) Certified enhanced emissions inspection equipment for testing and inspecting motor vehicles. Enter your inspection station license number \_\_\_\_\_.

(m) Alternative fuel vehicle refueling property, and the service of installing this property.

(n) Commercial vessels, including property used by or purchased for the use of these vessels for fuel, provisions, supplies, maintenance, and repairs, and the service of installing, maintaining, servicing, or repairing these vessels or property.

(o) Commercial aircraft, machinery and equipment to be installed on this aircraft, property used for maintenance or repair of this aircraft, and flight simulators purchased by commercial airlines.

(p) Commercial fishing vessels (other than sport fishing vessels), including property used by or purchased for the use of these vessels for fuel, provisions, supplies, maintenance, and repairs.

(q) Other (Describe exempt use and identify the section of the Tax Law covering this exemption.) \_\_\_\_\_

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.

Signature of purchaser or purchaser's representative (give title and relationship)	Date
Type or print the name that appears in the signature box	

# Instructions

If you have a valid *Certificate of Authority*, you may use Form ST-121 to purchase tangible personal property or services exempt from tax to the extent indicated in these instructions. Complete all required entries on the front of the form and give it to the seller.

You may use Form ST-121 as a blanket certificate covering the first and subsequent purchases of the same general type of property or service. However, each subsequent sales slip or purchase invoice (excluding utility bills) based on this blanket certificate must show the purchaser's name, address, and *Certificate of Authority* identification number.

## Part I — Production exemptions

**Item (a)** — You may purchase, exempt from tax, machinery and equipment, including parts, tools, and supplies, when purchased for use or consumption **directly** and **predominantly** in the production of tangible personal property, gas, electricity, refrigeration, or steam for sale.

**Item (b)** — You may purchase, exempt from tax, tangible personal property used **directly** and **predominantly** in the receiving, initiating, amplifying, processing, transmitting, re-transmitting, switching, or monitoring of telecommunications services, or Internet access services for sale.

**Item (c)** — You may purchase, exempt from tax, machinery, equipment, and apparatus (including parts, tools, and supplies used in connection with this machinery, equipment, and apparatus) used or consumed **directly** and **predominantly** to upgrade cable television systems so they are capable of providing digital cable television services or Internet access services for sale.

**Item (d)** — You may purchase, exempt from tax, machinery, equipment, and other tangible personal property (including parts, tools, and supplies) used by radio or television broadcasts **directly** and **predominantly** in the production (including post-production) of live or recorded programs used or consumed by a broadcaster predominantly for the purpose of broadcast over the air by the broadcaster or for transmission through a cable television or direct broadcast satellite system by the broadcaster. You may also purchase, exempt from tax, machinery, equipment, and other tangible personal property (including parts, tools, and supplies) for use and consumption **directly** and **predominantly** in the transmission of live or recorded programs over the air or through a cable television or direct-broadcast satellite system by the broadcaster. (For purposes of this exemption, a broadcaster includes a television or radio station licensed by the Federal Communications Commission, a television or radio broadcast network or cable television network.)

**Item (e)** — You may purchase gas or electricity or gas or electric service for use or consumption **directly** and **exclusively** to provide gas or electric service of whatever nature, including operation of a gas pipeline, a gas distribution line, or an electric transmission or distribution line.

**Item (f)** — You may purchase, exempt from tax, fuel, gas, electricity, refrigeration, and steam for use or consumption **directly** and **exclusively** in the production of tangible personal property for sale. You must pay any state and local taxes due on any part of any fuel or utility services not used for an exempt purpose. For example, electricity purchased solely to light a factory must be purchased tax paid, but electricity used for both operating exempt machinery and factory lighting may be purchased exempt. Report the tax due on the electricity for the lighting on your sales and use tax return as *Purchases subject to use tax*.

**Item (g)** — You may purchase, exempt from tax (except for the local tax imposed on sales and uses in the city of New York), fuel, gas, electricity, refrigeration, and steam for use or consumption **directly** and **exclusively** in the production of gas, electricity, refrigeration, and steam for sale. You must pay any state and local taxes due on any part of any fuel or utility services not used for an exempt purpose.

## Part II — Exemptions for services to exempt production property

**Item (h)** — You may purchase the services of installing, repairing, maintaining, and servicing the machinery, equipment, apparatus, and other tangible personal property listed in this section exempt from all state and local sales and use taxes.

Purchases described in Part II are exempt from all state and local sales and use taxes (including New York City).

## Part III — Other exemptions - exempt for all state and local sales and use taxes

**Items (i)** — Tangible personal property for use or consumption **directly** and **predominantly** in research and development in the experimental or laboratory sense is exempt from tax.

**Item (j)** — Gas, electricity, refrigeration, and steam, and gas, electricity, refrigeration, and steam service for use or consumption **directly** and **exclusively** in research and development in the experimental or laboratory sense may be purchased exempt from tax.

*Research and Development* does not include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions, or research in connection with literary, historical, or similar projects.

**Item (k)** — Vendors may purchase cartons, containers, and other wrapping and packaging materials and supplies used to package tangible personal property for sale if the property is actually transferred by the vendor to the purchaser of the property.

**Item (l)** — Enhanced emissions inspection equipment certified by the Department of Environmental Conservation for use in testing and inspecting motor vehicles as part of the enhanced emissions inspection program required by the Federal Clean Air Act of 1990 may be purchased

without payment of tax. To qualify for the exemption, the equipment must be purchased by an official inspection station, licensed by the Department of Motor Vehicles, and the inspection station must be authorized to conduct enhanced emissions inspections. (See TSB-M-97(8)S for further information about enhanced emissions inspection equipment.)

**Item (m)** — Alternative fuel vehicle refueling property is defined as property predominately used either for (1) the storage or dispensing of alcohol, natural gas, propane, or hydrogen into the fuel tank of an alternative fuel vehicle, or (2) the recharging of an electric vehicle, where the storage, dispensing, or recharging takes place at the point where the fuel is delivered into the fuel tank of the vehicle, or where the electric vehicle is recharged. Other qualifications for the exemption for this property are that it is subject to an allowance for depreciation and that its original use begins with the purchaser.

**Item (n)** — To qualify for the exemption, the commercial vessel must be **primarily** engaged in interstate or foreign commerce. The exemption does **not** apply to property purchased for or used in the original equipping of a new ship, or to the services of installing this property in the equipping of a new ship. (See TSB-M-96(14)S for further information concerning commercial vessels.)

**Item (o)** — To qualify for the exemption, the commercial aircraft must be **primarily** engaged in intrastate, interstate, or foreign commerce. (See TSB-M-96(14)S for further information concerning commercial aircraft.)

**Item (p)** — To qualify for the exemption, the fishing vessel must be used directly and predominantly in the harvesting of fish for sale. (See TSB-M-85(17)S for further information concerning commercial fishing vessels.)

**Item (q)** — Use this line to claim exemption from all sales and use taxes on qualified tangible personal property or services not otherwise specified in this certificate. Describe the exempt use of the tangible personal property or service being purchased, and identify the applicable section of the Tax Law.

## Misuse of this form

Any person who intentionally issues a fraudulent exemption certificate will become liable for penalties and interest, in addition to the sales tax initially due. Some penalties that apply are:

- 100% of the tax due
- \$50 for each fraudulent exemption certificate issued
- A misdemeanor penalty (consisting of fines not to exceed \$10,000 for an individual or \$20,000 for a corporation)

In addition to the penalties imposed for misuse of an exemption certificate, and any other penalties imposed by the Tax Law that may apply, your New York State *Certificate of Authority* can be revoked for falsifying an exemption certificate. Once this department has revoked your *Certificate of Authority*, you will be prohibited from conducting any business in New York State that requires a *Certificate of Authority*.

## To the seller

The purchaser must give you an exemption certificate with all required entries completed no later than 90 days after delivery of the property or service sold, or the sale will be deemed to have been taxable at the time of the transaction. If you receive a certificate after the 90-day period, both you and the purchaser assume the burden of proving the sale was exempt. Additional substantiation may be required.

In addition, if you fail to collect tax as a result of accepting an improperly completed exemption certificate, you become personally liable for the tax plus any penalty and interest charges due, unless the certificate is corrected within a reasonable period of time. You must keep this exemption certificate for at least three years after the due date of the last return to which it relates, or the date 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.

## Privacy notification

The right of the Commissioner of Taxation and Finance and the Department of Taxation and Finance to collect and maintain personal information, including mandatory disclosure of social security numbers in the manner required by tax regulations, instructions, and forms, is found in Articles 8, 28, and 28-A of the Tax Law; and 42 USC 405(c)(2)(C)(i).

The Tax Department uses this information primarily to determine and administer sales and use taxes or liabilities under the Tax Law, and for any other purpose authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of the Registration and Data Services Bureau, NYS Tax Department, Building 8 Room 338, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the U.S. and outside Canada, call (518) 485-6800.



## Need help?

Tax information: 1 800 972-1233

Forms and publications: 1 800 462-8100

From outside the U.S. and outside Canada: (518) 485-6800

Fax-on-demand forms: 1 800 748-3676

Internet access: <http://www.tax.state.ny.us>

Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110