

# Department of Taxation and Finance New York State and Local Sales and Use Tax

ST-120

## **Resale Certificate**

Name of seller	Name of purchaser	
Street address	Street address	
City State ZIP code	City	State ZIP code
Mark an <i>X</i> in the appropriate box: Single-use certificate Blanket certificate Temporary vendors must issue a single-use certificate.		
To the purchaser: You may not use this certificate to purchase items or services that are for resale, but use or consume the tangible personal property or service directly to New York State. Any misuse of this certificate will result in tax	es yourself in New York State, you m	nust report and pay the unpaid tax
Purchaser information – please type or print I am engaged in the business of		
Part 1 – To be completed by registered New York State sales tax v		<i>.,</i>
I certify that I am:		
a New York State vendor (including a hotel operator or a dues or admissions recipient), show vendor or entertainment vendor. My valid <i>Certificate of Authority</i> number is and expires on and expires on		
<ul> <li>A. Tangible personal property (other than motor fuel or diesel mot         <ul> <li>for resale in its present form or for resale as a physical com</li> <li>for use in performing taxable services where the property v services will be performed, or the property will actually be traperformance of the service; or</li> <li>B. A service for resale, including the servicing of tangible persona</li> <li>C. Restaurant-type food, heated food, or heated drink for resale.</li> </ul> </li> </ul>	ponent part of tangible personal pro will become a physical component pansferred to the purchaser of the tax	part of the property upon which the
Part 2 – To be completed by non-New York State purchasers		
I certify that I am not registered nor am I required to be registered as a tax or value added tax (VAT) in the following state/jurisdiction	(If:	and have sales tax or VAT registration is not
I am purchasing:  D. Tangible personal property (other than motor fuel or diesel mo customer or to an unaffiliated fulfillment services provider in Net.  E. Tangible personal property for resale that will be resold from a	ew York State.	
Certification: I certify that the above statements are true, complete, and statements and issue this exemption certificate with the knowledge that to do not apply to a transaction or transactions for which I tendered this do any such tax may constitute a felony or other crime under New York St. I understand that this document is required to be filed with, and deliver Tax Law section 1838 and is deemed a document required to be filed with understand that the Tax Department is authorized to investigate the valinformation entered on this document.	this document provides evidence that becument and that willfully issuing this ate Law, punishable by a substantiated to, the vendor as agent for the T th the Tax Department for the purpose	at state and local sales or use taxes of document with the intent to evade al fine and a possible jail sentence. Tax Department for the purposes of se of prosecution of offenses. I also
Type or print name and title of owner, partner, or authorized person of purchaser		
Signature of owner, partner, or authorized person of purchaser		Date prepared

#### Instructions

**New:** Effective June 1, 2018, use box C in Part 1 to purchase restaurant-type food or drink for resale. For more information, see <u>TSB-M-18(1)S</u>, Summary of Sales and Use Tax Changes Enacted in the 2018-2019 Budget Bill.

Form ST-120, Resale Certificate, is a sales tax exemption certificate.

#### This certificate is only for use by a purchaser who:

- A is registered as a New York State sales tax vendor and has a valid
   Certificate of Authority issued by the Tax Department and is making
   purchases of tangible personal property (other than motor fuel or
   diesel motor fuel) or services that will be resold or transferred to the
   purchaser's customers, or
- B is not required to be registered with the New York State Tax Department;
  - is registered with another state, the District of Columbia, a province of Canada, or other country, or is located in a state, province, or country which does not require sellers to register for sales tax or VAT purposes; and
  - is purchasing items for resale that will be either:
    - delivered by the seller to the purchaser's customer or to an unaffiliated fulfillment service provider located in New York State, or
    - delivered to the purchaser in New York State, but resold from a business located outside the state.

**Note:** For purposes of 1) above, delivery by the seller includes delivery in the seller's own vehicle or by common carrier, regardless of who arranges for the transportation.

## Non-New York State purchasers: registration requirements

If, among other things, a purchaser has any place of business or salespeople in New York State, or owns or leases tangible personal property in the State, the purchaser is required to be registered for New York State sales tax.

A business must register (unless the business can rebut the statutory presumption as described in TSB-M-08(3.1)S, Additional Information on How Sellers May Rebut the New Presumption Applicable to the Definition of Sales Tax Vendor as Described in TSB-M-08(3)S) for New York State sales tax if the business enters into agreements with residents of New York State under which the residents receive consideration for referring potential customers to the business by links on a Web site or otherwise, and the value of the sales in New York State made by the business through those agreements totals more than \$10,000 in the preceding four sales tax quarters. See TSB-M-08(3)S, New Presumption Applicable to Definition of Sales Tax Vendor, and TSB-M-08(3.1)S.

Also see TSB-M-09(3)S, *Definition of a Sales Tax Vendor is Expanded to Include Out-of-State Sellers with Related Businesses in New York State*, for information on sales tax registration requirements for out-of-state businesses with New York affiliates.

A purchaser who is not otherwise required to be registered for New York State sales tax may purchase fulfillment services from an **unaffiliated** New York fulfillment service provider and have its tangible personal property located on the premises of the provider without being required to be registered for sales tax in New York State.

If you need help determining if you are required to register because you engage in activity in New York State, contact the department (see *Need help?*).

If you meet the registration requirements and engage in business activities in New York State without possessing a valid *Certificate of Authority*, you will be subject to penalty of up to \$500 for the first day on which you make a sale or purchase, and up to \$200 for each additional day, up to a maximum of \$10,000.

#### Limitations on use

Contractors cannot use this certificate. They must either:

- issue Form ST-120.1, Contractor Exempt Purchase Certificate, if the tangible personal property being purchased qualifies for exemption as specified by the certificate, or
- · issue Form AU-297, Direct Payment Permit, or
- · pay sales tax at the time of purchase.

Contractors are entitled to a refund or credit of sales tax paid on materials used in repairing, servicing or maintaining real property, if the materials are transferred to the purchaser of the taxable service in conjunction with the performance of the service. For additional information, see Publication 862,

Sales and Use Tax Classifications of Capital Improvements and Repairs to Real Property.

#### To the Purchaser

Enter all the information requested on the front of this form.

You may mark an **X** in the *Blanket certificate* box to cover all purchases of the same general type of property or service purchased for resale. If you do not mark an **X** in the *Blanket certificate* box, the certificate will be deemed a *Single-use certificate*. Temporary vendors may not issue a blanket certificate. A *temporary vendor* is a vendor (other than a show or entertainment vendor), who, in no more than two consecutive quarters in any 12-month period, makes sales of tangible personal property or services that are subject to tax.

This certificate does not exempt prepaid sales tax on cigarettes. This certificate may not be used to purchase motor fuel or diesel motor fuel.

#### 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

If you are a New York State registered vendor and accept an exemption document, you will be protected from liability for the tax, if the certificate is valid.

The certificate will be considered valid if it was:

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

A certificate is accepted in good faith when a seller has no knowledge that the exemption certificate is false or is fraudulently given, and reasonable ordinary due care is exercised in the acceptance of the certificate.

You must get a properly completed exemption certificate from your customer no later than 90 days after the delivery of the property or the performance of the service. When you receive a certificate after the 90 days, both you and the purchaser are subject to the burden of proving that the sale was exempt, and additional documentation may be required. An exemption certificate received on time that is not properly completed will be considered satisfactory if the deficiency is corrected within a reasonable period. You must also maintain a method of associating an invoice (or other source document) for an exempt sale made to a customer with the exemption certificate you have on file from that customer.

**Invalid exemption certificates –** Sales transactions which are not supported by valid exemption certificates are deemed to be taxable retail sales. The burden of proof that the tax was not required to be collected is upon the seller.

Retention of exemption certificates - You must keep this certificate for at least three years after the due date of the 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

Sales Tax Information Center:

518-485-2889

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