

# Resale Certificate

☐ Single-use certificate      ☐ Blanket certificate      Date issued \_\_\_\_\_

Temporary vendors must issue a single-use certificate.

**Seller information** - *please type or print*

Seller's name		
Address		
City	State	ZIP code

**Purchaser information - *please type or print***

I am engaged in the business of \_\_\_\_\_ and principally sell \_\_\_\_\_  
(Contractors may not use this certificate to purchase materials and supplies.)

**Part 1 - To be completed by registered New York State sales tax vendors**

**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 Certificate of Authority Number is \_\_\_\_\_
- ☐ a New York State temporary vendor. My valid Certificate of Authority Number is \_\_\_\_\_ and expires on \_\_\_\_\_

**I am purchasing:**

- A** ☐ Tangible personal property (other than motor fuel or diesel motor fuel)
- for resale in its present form or for resale as a physical component part of tangible personal property;
  - for use in performing taxable services where the property will become a physical component part of the property upon which the services will be performed, or the property will actually be transferred to the purchaser of the taxable service in conjunction with the performance of the service, or
- B** ☐ A service for resale, including the servicing of tangible personal property held for sale.

**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 New York State sales tax vendor. I am registered to collect sales tax or value added tax (VAT) in the following state/jurisdiction \_\_\_\_\_ and have been issued the following registration number \_\_\_\_\_. (If sales tax or VAT registration is not required and a registration number is not issued by your home jurisdiction, indicate the location of your business and write ***not applicable*** on the line requesting the registration number.)

**I am purchasing:**

- C** ☐ Tangible personal property (other than motor fuel or diesel motor fuel) for resale, and it is being delivered directly by the seller to my customer or to an unaffiliated fulfillment services provider in New York State.
- D** ☐ Tangible personal property for resale that will be resold from a business located outside New York State.

### Part 3 - Certification

**I, the purchaser, understand that:**

- I may not use this certificate to purchase items or services that are not for resale.
- If I purchase tangible personal property or services for resale, but I use or consume the tangible personal property or services myself in New York State, I must report and pay the unpaid tax directly to New York State.
- I will incur tax liabilities, in addition to penalty and interest, for any misuse of this certificate.

*Please type or print*

Purchaser's name as it appears on the sales tax registration			Name of owner, partner, or officer of corporation, authorizing the purchase		
Street address			Purchaser's signature		
City	State	ZIP code	Title		

**Substantial penalties will result from misuse of this certificate.**

# Instructions For Use of Resale Certificates

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:
    - 1) delivered by the seller to the purchaser's customer or to an unaffiliated fulfillment service provider located in New York State, or
    - 2) 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.

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 in New York State. If you need help determining if you are required to register because you engage in some other activity in the State, contact the Department (see the **Need Help** section). However, a purchaser who is not otherwise required to be registered in New York 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 in New York State.

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, *Contractors 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 check the *Blanket certificate* box to cover all purchases of the same general type of property or service purchased for resale. If you do not check 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.

If you intentionally issue a fraudulent exemption certificate, you will become liable for penalties and interest, in addition to the sales tax initially due. Some penalties that may apply:

- 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
- loss of your Certificate of Authority

## 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?

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: 1 800 634-2110