



Exempt Use Certificate for Certain Theatrical Productions

To be completed by the purchaser and given to the seller.

Read instructions on the back before completing or accepting this form.

This certificate is not valid, and should not be accepted from the purchaser, unless all entries have been completed.

Check one: Single purchase certificate Blanket certificate

Part I - Seller's information (please print or type)

Name of seller		
Street address		
City	State	ZIP code

Part II - Purchaser's information (please print or type)

Name of purchaser (production or theatrical company, as applicable)	Purchaser's Certificate of Authority number (see instructions)	
Street address		
City	State	ZIP code

Part III - Production information (please print or type)

Name of theatrical production		
Name of theater or other similar place of assembly contracted for production performances		
Street address		
City	State	ZIP code

In order for purchases to be exempt: Performances of the named production are to be presented to the public in New York State at least five (5) times a week for at least two (2) consecutive weeks. The content of each of these performances must be the same. There must be an admission charge for each performance. The theater or other place of assembly (excluding roof gardens, cabarets, or similar places) must have a seating capacity of at least 100 permanently installed seats. Will all of these conditions be met?

No Stop: you do not qualify for this exemption.

Yes Performances are expected to begin _____ and end _____

Part IV - Exemption from New York State and local sales and use taxes (check all boxes that apply)

- (A) Tangible personal property for use or consumption directly and predominantly in production of the live dramatic or musical arts performances indicated above.
- (B) Services described in section 1105(c)(2) or (3) of the Tax Law (installing, repairing, maintaining, or servicing tangible personal property; and producing, fabricating, processing, printing, or imprinting tangible personal property performed for a person who directly or indirectly furnishes the property) when rendered with respect to exempt property described in (A) above.

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 purchasing agent	Print name and title	Date
--	----------------------	------

Substantial penalties will result from misuse of this certificate.

To the purchaser:

You may use Form ST-121.9 as a **blanket certificate** covering the first and subsequent purchases, including rentals, of the same general type of property or service for the same production. However, each subsequent sales slip or purchase invoice related to this blanket certificate must show the name of the production, the purchaser's name, and the *Certificate of Authority* identification number, if applicable. If you make future purchases from this seller that do not qualify for the exemption, you must pay the sales tax at the time of purchase.

Part I - Seller's information

Print or type the seller's name and address.

Part II - Purchaser's information

Print or type the purchaser's name and address. If the purchaser is a company, enter the company name, not the name of the person purchasing on behalf of the company.

Purchaser's Certificate of Authority number

If you are registered or required to be registered with the New York State Tax Department as a person required to collect sales tax, enter your *Certificate of Authority* identification number. If you are not required to be registered, enter **N/A** (not applicable).

Part III - Production information

This exemption applies to a production of live dramatic or musical arts performances that will be presented in a theater or other similar place of assembly in New York State (excluding roof gardens, cabarets, or other similar places), with a seating capacity of at least 100 permanently installed seats. There must also be an expectation at the time of purchase that the production will be presented to the public at least five times a week for a period of at least two consecutive weeks. The content of each of the performances must be the same. There must be a charge for admission to each performance.

Part IV - Exemption from New York State and local sales and use taxes

- (A) The tangible personal property being purchased or rented must be used or consumed directly and predominantly in the production of qualifying live dramatic or musical arts performances.

Tangible personal property is used **directly** in production of a performance if it is used to prepare the stage for performances, is on-stage during performances, or is otherwise actually used directly in producing the performances.

Tangible personal property is used **predominantly** in production if more than 50% of its use is in the production of the performances.

- (B) The services must be performed on tangible personal property exempt in (A) above.

Exempt property and services may include:

- scenery and scenic elements (any or all devices ordinarily used on a stage in the presentation of a performance, such as backdrops, projections, special effects, side tabs, teasers, borders or scrim, rigid flats, set pieces, and properties);
- lighting and sound equipment purchased or rented for the performance (but not if permanently installed in or at the place of assembly where the performances are to occur);
- props (items used on stage, such as tables, chairs, and glasses);
- costumes; and
- services performed on the exempt tangible personal property listed above (installing, repairing, maintaining, or servicing tangible personal property; and producing, fabricating, processing, printing, or imprinting tangible personal property performed for a person who directly or indirectly furnishes the property).

The exemption does not include, (among other things):

- tangible personal property that is permanently affixed to or becomes an integral component part of land, a building, or a structure;
- property or services used for administrative purposes, such as sales promotions, general office work, ordering and receiving materials, making travel arrangements, the preparation of rehearsal schedules, and the preparation of work and payroll records;
- advertising and promotional costs (such as posters and handbills purchased by the production company);
- electricity and other utilities; and
- food, drink, and gifts purchased for the cast and crew.

See TSB-M-99(4)S, *Summary of the 1999 Sales and Compensating Use Tax Budget Legislation*, for more information on this exemption, including a definition of place of assembly.

To the seller:

The purchaser must give you an exempt use certificate with all required entries completed no later than 90 days after delivery of the property or services sold, or the sale will be deemed to have been taxable at the time of the transaction. If you receive the certificate after the 90-day period, both you and the purchaser assume the burden of proving the sale was exempt, and 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 or you otherwise prove that the transaction was not subject to tax. Vendors must keep this certificate as part of their sales tax records, and be able to associate the certificate with related sales, for at least three years after the date of the last sale to which the certificate relates.

If the *Blanket certificate* box is checked, you may consider this certificate part of any order received from the purchaser, for the named production, during the period that the blanket certificate remains in effect. However, each subsequent sales slip or purchase invoice based on this blanket certificate must show the name of the production, the purchaser's name, and the purchaser's *Certificate of Authority* identification number, if applicable. A blanket certificate remains in effect until the purchaser gives you written notice of revocation, or you have knowledge that the certificate is false or was fraudulently produced, or until the Tax Department notifies you that the purchaser may not make exempt purchases.

Misuse of this certificate

Any person who issues a false or fraudulent exemption certificate may be liable for penalties and interest in addition to the 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)
- Revocation of your *Certificate of Authority*, if you are required to be registered as a vendor.

Need help?

Telephone assistance is available from 8 a.m. to 5:55 p.m. (eastern time), Monday through Friday.
Business tax information: 1 800 972-1233

Forms and publications: 1 800 462-8100
(Also see *Internet access* below.)

From areas outside the U.S. and outside Canada: (518) 485-6800
Fax-on-demand forms: 1 800 748-3676

Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110 (8 a.m. to 5:55 p.m., eastern time).



Internet access: www.tax.state.ny.us
(for forms, publications, information)



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 1 800 225-5829.



If you need to write, address your letter to: NYS Tax Department, Taxpayer Contact Center, W A Harriman Campus, Albany NY 12227.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes 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 Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.