



Exemption Certificate For Computer System Hardware

To be completed by the purchaser and given to the seller. Complete all required entries (see instructions).

Name of seller	Name of purchaser
Street address	Street address
City State ZIP code	City State ZIP code
Purchaser's Certificate of Authority number (see instructions)	

Mark an **X** in the appropriate box: Single-purchase certificate
 Blanket certificate

My purchase of **computer system hardware** is exempt from sales and use tax because it will be used directly and predominantly for the purpose(s) marked below:

- A.** The design and development of computer software for sale.
- B.** Providing the service of designing and developing Internet Web sites, when that service is for sale.
- C.** In a combination of the uses described in A and B.

These exemptions are also allowed for **embedded software** that comes as part of computer system hardware.

These exemptions **do not** apply to:

- other pre-written software, including operating system software and application software;
- the purchase of consumable supplies or tools used in the operation, maintenance, or repair of computer system hardware; or
- the services of installing, maintaining, servicing, or repairing computer system hardware (see *Instructions* for additional information).

If this is a blanket statement and in the future I make a purchase that does not qualify for the exemption, I will pay the appropriate tax to the seller at the time of purchase.

Certification

I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence. I understand that this document is required to be filed with, and delivered to the vendor as agent for the Tax Department for the purposes of section 1838 of the Tax Law and is deemed a document required to be filed with the Tax Department for the purpose of prosecution of offenses. I also understand that the Tax Department is authorized to investigate the validity of tax exclusions or exemptions claimed and the accuracy of any information entered on this document.

Type or print name and title of owner, partner, or authorized person of purchase	Signature of owner, partner, or authorized person of purchase	Date prepared
--	---	---------------

Instructions

Who should use this form

If you purchase, lease, or rent computer system hardware it may be exempt from sales tax if used or consumed *directly* and *predominantly* in designing and developing computer software for sale. This includes hardware used directly and predominantly in providing the service, for sale, of designing and developing Internet Web sites; or in a combination of such Web site service and designing and developing software for sale.

Directly means that the computer system hardware is actually used in, or has an active, causal relationship in designing and developing computer software for sale or in providing the service, for sale, of designing and developing Internet Web sites.

Predominantly means that the hardware must be used more than 50% of the time in designing and developing computer software for sale or in providing the service, for sale, of designing and developing Internet Web sites for sale.

Designing and developing includes systems analysis, program design, coding, testing, debugging, and documentation.

To the purchaser

Complete this certificate and give it to the seller.

If you marked an **X** in the *Blanket certificate* box, this certificate exempts purchases qualifying for the exemption. If you make

Substantial penalties will result from misuse of this certificate.

future purchases from this seller that do not qualify for the exemption, you must pay sales tax at the time of purchase.

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**.

To the seller

This transaction is exempt from sales tax as long as the purchaser properly completes this Form ST-121.3 and gives it to you no later than 90 days after delivery of the property. If you receive it after this 90-day period, both you and the purchaser assume the burden of proving the sale was exempt.

If you accept an improperly completed exemption certificate, you become personally liable for any sales and use tax, plus any penalty and interest that may be due, unless the certificate is corrected within a reasonable period of time.

Keep this exemption certificate for at least three years after the due date or filing date (whichever is later) of the last return that it relates to. 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.

If the purchaser marked an **X** in the *Blanket certificate* box, you may consider this certificate part of any order received from the purchaser 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 purchaser's name and address. 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 presented, or until the Tax Department notifies you that the purchaser may no longer make exempt purchases.

Purchases eligible for exemption

The term *computer system hardware* means the physical components from which a computer system is built, including associated parts and embedded software.

The hardware may include microcomputers, minicomputers, mainframe computers, personal computers, external hard drives, portable disk drives, CD-ROM drives, external modems, monitors, keyboards, mice, printers, scanners, servers, network interfaces, network hubs, and network routers.

Associated parts are any components of, or attachments to, computer system hardware that are used in connection with, and are necessary to, the performance of the hardware's operation. By definition, a part cannot accomplish the work for which it is designed independent of the computer system hardware of which it is intended to be a component. Parts may include motherboards, daughterboards, central processing units, controller cards, internal hard drives, internal modems, network interface cards, sound cards, video cards, and network wiring and cables.

Embedded software comes as a part of the computer system hardware and is actually an integral part of the computer, typically in the form of a memory chip.

The sale of custom software is not subject to sales or use tax (see TSB-M-93(3)S, *State and Local Sales and Compensating Use Taxes Imposed on Certain Sales of Computer Software*). For information on the taxability of computer software used

in an Internet data center, see Form ST-121.5, *Exempt Use Certificate for Operators of Internet Data Centers (Web Hosting)*.

Purchases not eligible for exemption

Charges for the service of installing, maintaining, servicing, or repairing computer system hardware are not eligible for this exemption. Nor are charges for support packages and warranties.

Also not eligible are consumable supplies such as toner, ink, printer paper, floppy diskettes, removable disk cartridges, high-capacity disks, portable disk drive disks, and writable and erasable CD-ROM and DVD discs.

The purchase of pre-written **computer software**, whether pre-installed or not, is not eligible for this exemption unless it is embedded software. *Pre-written computer software* includes operating systems, firmware, algorithms, data sets, compilers and translators, assembly routines, utility programs, and application programs.

If a computer system hardware package includes pre-written computer software (other than embedded software), the seller must reasonably allocate the selling price between the hardware and the pre-written computer software and collect tax on the amount allocated to the pre-written software. Failure to reasonably allocate the selling price between the hardware and the pre-written computer software will result in the entire sales price of the computer system hardware package being subject to tax.

Tools used in the operation, maintenance, or repair of computer system hardware are not eligible for this exemption.

For more information, see TSB-M-98(5)S, *Exemption for Computer System Hardware*.

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 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.

Need help?

	Internet access: www.tax.ny.gov (for information, forms, and publications)
	Sales Tax Information Center: (518) 485-2889 To order forms and publications: (518) 457-5431
	Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): (518) 485-5082