



# Contractor Certification

(Pursuant to Section 5-a of the Tax Law)

# ST-220

(9/05)

For more information, see Publication 222, *Question and Answers Concerning Tax Law Section 5-a.*

Contractor name				For covered agency use only Contract number or description
Contractor's principal place of business	City	State	ZIP code	
Mailing address (if different than above)				
Contractor's federal employer identification number (EIN)		Contractor's sales tax ID number (if different from contractor's EIN)		Estimated contract value over the full term of contract (but not including renewals)
Contractor's telephone number ( )	Covered agency			
				\$

I, \_\_\_\_\_, hereby affirm, under penalty of perjury, that I am \_\_\_\_\_

(name)

(title)

of the above-named contractor, that I am authorized to make this certification on behalf of such contractor, and that to the best of my knowledge:

### Part I. Contract not covered by section 5-a of the Tax Law

(Mark an X in the box if this statement is applicable. If you mark this box, you do not have to complete Parts II through V.)

The requirements of section 5-a of the Tax Law do not apply to this contract (provide a separate explanation and attach to this form).

(If you did not mark the box next to the statement in Part I, mark an X next to the applicable statement in Parts II through IV and, if applicable, Part V.)

### Part II. Contractor registration status

The contractor has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four quarterly periods ending on the last day of February, May, August, and November which immediately precede the quarterly period in which this certification is made and for which information is available, and is registered for New York State and local sales and compensating use tax purposes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor is listed on Schedule A of this certification.

As of the date of this certification, the contractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four quarterly periods ending on the last day of February, May, August, and November which immediately precede the quarterly period in which this certification is made and for which information is available.

### Part III. Affiliate registration status

As of the date of this certification, the contractor does not have any affiliates.

The contractor has one or more affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four quarterly periods ending on the last day of February, May, August, and November which immediately precede the quarterly period in which this certification is made and for which information is available, and each affiliate exceeding the \$300,000 cumulative sales threshold during such periods is registered for New York State and local sales and compensating use tax purposes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each affiliate exceeding the \$300,000 cumulative sales threshold during such periods on Schedule A of this certification.

The contractor has one or more affiliates and, as of the date of this certification, each affiliate has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four quarterly periods ending on the last day of February, May, August, and November which immediately precede the quarterly period in which this certification is made and for which information is available.

**Part IV. Subcontractor registration status**

- As of the date of this certification, the contractor does not have any subcontractors.
- The contractor has one or more subcontractors, and each subcontractor has informed the contractor of whether or not, as of the date of this certification, it has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four quarterly periods ending on the last day of February, May, August, and November which immediately precede the quarterly period in which this certification is made and for which information is available. Each subcontractor informing the contractor that it has made sales in excess of the \$300,000 cumulative sales threshold during such periods has further informed the contractor that it is registered for New York State and local sales and compensating use tax purposes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each subcontractor exceeding the \$300,000 cumulative sales threshold during such periods on Schedule A of this certification.
- The contractor has one or more subcontractors, and each subcontractor has informed the contractor that, as of the date of this certification, it has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four quarterly periods ending on the last day of February, May, August, and November which immediately precede the quarterly period in which this certification is made and for which information is available.

**Part V. Subcontractor affiliate registration status**

- The contractor has one or more subcontractors, and each subcontractor has informed the contractor that, as of the date of this certification, it does not have any affiliates.
- The contractor has one or more subcontractors, and each subcontractor has informed the contractor of whether or not, as of the date of this certification, it has any affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four quarterly periods ending on the last day of February, May, August, and November which immediately precede the quarterly period in which this certification is made and for which information is available. Each subcontractor informing the contractor that it has one or more affiliates having made sales in excess of the \$300,000 cumulative sales threshold during such periods has further informed the contractor that each such affiliate is registered for New York State and local sales and compensating use tax purposes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each subcontractor affiliate exceeding the \$300,000 cumulative sales threshold during such periods on Schedule A of this certification.
- The contractor has one or more subcontractors, and each subcontractor has informed the contractor that, as of the date of this certification, it has no affiliate having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four quarterly periods ending on the last day of February, May, August, and November which immediately precede the quarterly period in which this certification is made and for which information is available.

Sworn to this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(title)

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF \_\_\_\_\_ }
: SS.:
COUNTY OF \_\_\_\_\_ }

On the day \_\_\_\_ of \_\_\_\_\_ in the year 20\_\_\_\_, before me personally appeared \_\_\_\_\_, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that \_he resides at \_\_\_\_\_,

Town of \_\_\_\_\_,

County of \_\_\_\_\_,

State of \_\_\_\_\_; and further that:

[Mark an X in the appropriate box and complete the accompanying statement.]

[ ] (If an individual): \_he executed the foregoing instrument in his/her name and on his/her own behalf.

[ ] (If a corporation): \_he is the \_\_\_\_\_ of \_\_\_\_\_, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, \_he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

[ ] (If a partnership): \_he is the \_\_\_\_\_ of \_\_\_\_\_, the partnership described in said instrument; that, by the terms of said partnership, \_he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.

[ ] (If a limited liability company): \_he is a duly authorized member of, \_\_\_\_\_ LLC, the limited liability company described in said instrument; that \_he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

\_\_\_\_\_  
Notary Public

Registration No.



## Instructions

### General information

Section 5-a of the Tax Law requires contractors awarded contracts valued at more than \$15,000 by state agencies, public authorities or public benefit corporations to certify that they, their affiliates, their subcontractors, and the affiliates of their subcontractors are registered to collect New York State and local sales and compensating use taxes. Contractors, affiliates, subcontractors and subcontractor affiliates must be registered if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four quarterly periods ending on the last day of February, May, August, and November which immediately precede the quarterly period in which certification of registration is made and for which information is available. Certification of registration must be made before the contract can be approved by the Office of the State Comptroller, or other responsible party if OSC is not required to approve the contract. In addition, certification of registration must be made at specified intervals during the contract term.

For more detailed information regarding section 5-a of the Tax Law, see Publication 222, *Questions and Answers Concerning Tax Law Section 5-a*.

### Meaning of terms used in section 5-a of the Tax Law

**Contractor** means a person awarded a contract.

**Person** includes an individual, partnership, limited liability company, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

**Contract** means an agreement between a contractor and a covered agency for the sale of commodities or services having a value in excess of \$15,000.

**Covered agency** means New York State, any department, board, bureau, commission, division, office, council or agency of New York State, and a public authority or public benefit corporation.

**Sale** means any transfer of title or possession or both, exchange or barter, rental, lease or license to use or consume. For computer software, the term *sale* also includes the right to reproduce the software.

**Commodities** include **either** commodities as defined for New York procurement law purposes, or tangible personal property as defined for New York State and local sales and compensating use tax law purposes. For procurement law purposes, the term *commodities* means (other than with respect to contracts for State printing) material goods, supplies, products, construction items, or other standard articles of commerce other than technology which are the subject of any purchase or other exchange. For New York State and local sales and compensating use tax law purposes, the term *tangible personal property* means corporeal personal property of any nature having a material existence and perceptible to the human senses. Tangible personal property includes without limitation: 1) raw materials, such as wood, metal, rubber and minerals; (2) manufactured items, such as gasoline, oil, diesel motor fuel and kero-jet fuel, chemicals, jewelry, furniture, machinery and equipment, parts, tools, supplies, computers, clothing, motor vehicles, boats, yachts, appliances, lighting fixtures, building materials; (3) pre-written, off-the-shelf software; (4) artistic items, such as sketches, paintings, photographs, moving picture films, and recordings; (5) animals, trees, shrubs, plants, and seeds; (6) bottled

water, soda, beer; (7) candy and confections; (8) cigarettes and tobacco products; (9) cosmetics and toiletries; (10) coins and other numismatic items, when purchased for purposes other than for use as a medium of exchange; (11) postage stamps, when purchased for purposes other than mailing; and (12) precious metals in the form of bullion, ingots, wafers and other forms. Tangible personal property does **not** include real property or intangible personal property.

**Services** include **either** services as defined for New York procurement law purposes, or taxable services as defined for New York State and local sales and compensating use tax law purposes. For procurement law purposes, the term *services* means (other than with respect to contracts for State printing) the performance of a task or tasks and may include a material good or a quantity of material goods, and which is the subject of a purchase or other exchange. For procurement law purposes, technology is a service. The term *services* for procurement law purposes does **not** apply to contracts for architectural, engineering or surveying services, or to contracts with not-for-profit organizations approved in accordance with Article 11-B of the State Finance Law. For New York State and local sales and compensating use tax law purposes, the term *taxable services* includes: 1) providing information by printed, mimeographed or multigraphed matter or by duplicating written or printed matter in any other manner, including the services of collecting, compiling, or analyzing information of any kind or nature and furnishing reports thereof to other persons; 2) processing, assembling, fabricating, printing, or imprinting tangible personal property furnished by a customer who did not purchase the tangible personal property for resale; 3) installing tangible personal property, or maintaining, servicing, or repairing tangible personal property that is not held for sale by the purchaser of the service; 4) storing tangible personal property that is not being held for sale, and the rental of safe deposit boxes or similar space; 5) maintaining, servicing or repairing real property, whether inside or outside buildings; 6) providing parking, garaging or storing for motor vehicles; 7) interior decorating and designing services; 8) protective and detective services; and 9) furnishing entertainment or information services by means of telephony or telegraphy.

**Affiliate** means a person which, through stock ownership or any other means, directly, indirectly or constructively controls another person, is controlled by another person, or is, along with another person, under the control of a common parent.

**Subcontractor** means a person providing commodities or performing services for a contractor or another subcontractor in fulfillment of a contract

**Emergency** means an urgent and unexpected requirement where health and public safety or the conservation of public resources is at risk.

## Completing Form ST-220

### Identification information

**Contractor name:** Enter the exact legal name of the person who is contracting to provide commodities or services to a covered agency.

**Contractor's principal place of business:** Enter a street address, not a PO box number.

**Mailing address:** Enter the address where the contractor receives mail, if different than the principal place of business.

**Covered agency:** Enter the name of the covered agency awarding the contract.

## Covered agency use only

**Contract number or description:** If the contract has been assigned a number by the covered agency, enter that number. If a number has not been assigned, provide a brief description of the nature of the contract.

**Estimated contract value:** Enter the estimated contract value for the full term of the contract, but excluding any renewal terms.

## Certification statement

If the contractor is a corporation, the certification must be completed by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or other officer authorized by the corporation. If the contractor is a partnership, the statement must be completed by a partner or person authorized by the partnership. If the contractor is a limited liability company, the statement must be completed by a member of the LLC and be authorized by the LLC.

The person signing this certification must also complete the *Individual, Corporation, Partnership, or LLC Acknowledgement* (see page 3) and have it notarized.

## Part I – Contract not covered by section 5-a of the Tax Law

If the contract is not covered by section 5-a of the Tax Law, mark an **X** in the box and attach a separate explanation as to why the contract is not covered. You do not have to complete Parts II through V. You must sign and have the certification acknowledged.

A contract would not be covered by section 5-a of the Tax Law if: 1) the covered agency began the procurement before January 1, 2005; 2) the procuring entity is not a *covered agency* within the meaning of section 5-a; 3) the contract does not have a value in excess of \$15,000; 4) the contract is not for commodities or services as such terms are defined for purposes of section 5-a; or 5) the contract is sole source, and is necessary to address an emergency, ensure the provision of essential services, or ensure the public health, safety and welfare.

## Parts II through V

If the contract is covered under section 5-a of the Tax Law, you must mark an **X** in one box in Part II through Part IV and, if applicable, Part V. You must also sign and have the certification acknowledged, and complete Schedule A, if required.

For purposes of calculating if the contractor, contractor affiliate, subcontractor or subcontractor affiliate must be reported, the \$300,000 cumulative sales threshold includes all sales made by the entity to tax-exempt purchasers.

## Schedule A

List the contractor, or an affiliate, subcontractor or subcontractor affiliate in Schedule A only if such person exceeded the more than \$300,000 cumulative sales threshold during the specified periods.

In addition, for each person listed in the Schedule A, proof of registration with the Tax Department for New York State and local sales and compensating use tax purposes is required. Proof of registration may be provided by furnishing a copy of the person's *Certificate of Authority* (a document issued by the Tax Department authorizing a person to collect and pay over New York State and local sales and compensating use taxes), or, if the *Certificate of Authority* is not available, registration may be verified by calling the Tax Department's Business Tax Information Center at 1 800 972-1233.

## Column A – Relationship to the contractor

The contractor should enter a **C** in column A. It is not necessary for the contractor to complete columns B through E since this information has been provided on page 1.

If the person listed in column B is an affiliate of the contractor, enter an **A**; if a subcontractor, enter an **S**; if an affiliate of a subcontractor, enter **SA**.

## Column B – Name

Enter the exact legal name as registered with the New York Department of State of each corporation or limited liability company. If the person is a partnership or sole proprietor, enter each partner's or the owner's given name. If the person uses a different name or DBA (doing business as), enter that name as well.

## Column C – Address

Enter the street address of the person's principal place of business. Do not enter a PO box.

## Column D – ID number

If the person listed in column B is an individual, enter the social security number of that person. Otherwise enter the employer identification number (EIN) assigned to the person.

## Column E – Sales tax ID number

Enter the sales tax identification number, if different from the federal employer identification number.

## Column F – Proof of registration

Enter **CA** and attach a copy of the *Certificate of Authority* for the person.

If the *Certificate of Authority* is not available and if the person is registered with the Department of Taxation and Finance and has verified this status with the DTF, enter **RC**.

**Return a signed and acknowledged original Form ST-220, and a copy, to the procuring covered agency.**