



Form ST-5C Contractor's Sales Tax Exempt Purchase Certificate

Rev. 11/10

**Massachusetts
Department of
Revenue**

Part A. To be completed by governmental body, agency or IRC Section 501(c)(3) certified exempt organization

Exempt number E — — Contract number _____

Name of exempt organization _____

Authorizing signature _____ Date _____

Part B. To be completed by purchasing contractor or subcontractor claiming exemption under MGL Ch. 64H, sec. 6(d), (e), (f) or (tt)

Purchaser (contractor subcontractor)

Address _____

Date _____ Vendor registration number (if applicable) _____

Contract/subcontract number _____ Contract/subcontract date _____ Estimated date of completion _____

Part C. To be completed by purchasing contractor or subcontractor claiming exemption. See instructions.

I claim the exemption corresponding to the box checked below, and certify as follows (check appropriate box below):

1. *Exemption under MGL Ch. 64H, sec. 6(d) or (e): Contractor as Agent of Exempt Entity.* I certify that the purchaser is a contractor or subcontractor engaged in the performance of the above described contract and that the purchaser is acting as an agent of one the entities described below (check appropriate box) in purchasing tangible personal property (other than building materials and supplies described in MGL Ch. 64H, sec. 6(f)):
 - Governmental body or agency described in MGL Ch. 64H, sec. 6(d) (local public school, city/town government, state agency, etc.). Attach Form ST-2, Certificate of Exemption. If Form ST-2 is not available, enter agency's exemption number.
 - Tax exempt organization (under IRC Section 501(c)(3)) as described in MGL Ch. 64H, sec. 6(e) (parochial school, Scout troop, PTO, etc.). Attach Form ST-2, Certificate of Exemption.

To the best of my knowledge and belief, the quantities of tangible personal property noted on the reverse side are exempt from the sales/use tax under the provisions of MGL Ch. 64 H, sec. 6(d) or (e) as they are purchased by a purchaser acting as an agent for either a Massachusetts governmental body or for a tax-exempt organization under IRC section 501(c)(3).

2. *Exemption under MGL Ch. 64H, sec. 6(f): Building Materials and Supplies.* I certify that the purchaser is a contractor or subcontractor engaged in the performance of a contract for the construction, reconstruction, alteration, remodeling or repair of a building or structure for a governmental body or agency or for a certified IRC Section 501(c)(3) exempt organization or other project described in MGL Ch. 64H, sec. 6(f). To the best of my knowledge and belief, the described quantities of building materials and supplies noted on the reverse side are exempt from sales/use tax under the provisions of MGL Ch. 64H, sec. 6(f), and the described quantities of these materials and supplies are being purchased for use exclusively in the above contract.

3. *Exemption under MGL Ch. 64H, sec. 6(tt): Consulting/Operating Contractor as Agent of Governmental Entity.* I certify that the purchaser is a consulting or operating contractor or subcontractor as defined in MGL Ch. 64H, sec. 6(tt) and that the purchaser is authorized and acting as an agent of, and providing "qualified services," as defined in MGL Ch. 64H, sec. 6(tt), to a governmental body or agency described in MGL Ch. 64H, sec. 6(d). Attach Form ST-2. If Form ST-2 is not available, enter agency's exemption number. To the best of my knowledge and belief, the quantities of tangible personal property noted on the reverse side are exempt from the sales/use tax under the provisions of MGL Ch. 64 H, sec. 6(tt). The purchaser has been authorized under the above contract by a governmental body.

Regardless of the exemption claimed, I will maintain adequate records to show the disposition of all property purchased under this certificate. I understand that I am fully liable for the payment of any sales/use tax due in the event that the property purchased under this certificate is used in a non-exempt manner.

Signed under the penalties of perjury.

Signature _____ Title _____

Location and description of project and description of kind and quantity of property or receipts/invoices must be attached or noted on the back of this form. This form is approved by the Commissioner of Revenue and may be reproduced.

Form ST-5C Instructions

Instructions to Vendors

In general, this form is intended for use by contractors and subcontractors purchasing building materials and supplies, as well as other types of tangible personal property for use in various tax-exempt projects. The applicable exemptions governing these purchases are found in MGL Ch. 64H, secs. 6(d), (e), (f), or (tt). Contractors and subcontractors must complete all appropriate sections of this form when making purchases for which they are claiming exemption. These exemptions and requirements are described briefly, below.

Part C

1. Contractors and subcontractors purchasing certain property (excluding building materials and supplies) as agents acting on behalf of governmental bodies and agencies or 501(c)(3) organizations. In general, contractors or subcontractors purchasing tangible personal property (other than building materials and supplies for use in projects described in MGL Ch. 64H, sec. 6(f), which are discussed in section 2, below) as duly authorized agents acting on behalf of governmental bodies or agencies or Internal Revenue Service certified tax exempt 501(c)(3) organizations must check Box 1 under Part C of Form ST-5C. If the purchase is made by an agent acting on behalf of a 501(c)(3) entity, the agent must also attach a copy of the exempt entity's Form ST-2, Certificate of Exemption, to this form. If the purchase is made by an agent of a governmental body or agency, Form ST-2 should also be attached. However, if the governmental body or agency does not present its agent with Form ST-2, the agent should submit other documentation evidencing its principal's exempt governmental status. Overhead items purchased in connection with such contracts, for example, office furniture and equipment, consumable supplies for the contractor's own use and not for the use of the governmental agency or 501(c)(3) organization, are not eligible for this exemption. Rather, a contractor, as the consumer of such items, must pay sales/use tax on these purchases.

Use of Form ST-5: Agents of exempt governmental entities or 501(c)(3) organizations who are not contractors or subcontractors purchasing the above property (i.e., property other than building materials and supplies described in MGL Ch. 64H, sec. 6(f)) should not use this form. Instead, such purchasers, for example, scout troops or Parent Teacher Organizations purchasing tangible

personal property on behalf of exempt entities for fundraising purposes, should follow the instructions for Form ST-5, Exempt Purchaser Certificate, and present it to their vendors, along with a copy of the exempt governmental or 501(c)(3) entity's Form ST-2.

2. Contractors purchasing building materials and supplies for use in projects described in MGL Ch. 64H, sec. 6(f). Contractors or subcontractors purchasing building materials or supplies for use in an exempt project described in MGL Ch. 64H, sec. 6(f), for example, contracts for the construction, reconstruction, alteration, remodeling or repair of a building or structure owned by or held in trust for the benefit of for a governmental body or agency mentioned in MGL Ch. 64H, sec. 6(d) and used exclusively for public purposes, or for an IRS certified section 501(c)(3) exempt organization mentioned in MGL Ch. 64H, sec. 6(e), must check Box 2 under Part C of Form ST-5C.

Items that do not constitute "building materials and supplies" within the meaning of MGL Ch. 64H, sec. 6(f) include office supplies, furniture and equipment and other overhead items purchased for use by the contractor or its employees in performing its contracts. Contractors and subcontractors, as the consumers of such items, must pay sales/use tax on these purchases.

Exempt purchases of building materials and supplies are limited to those materials and supplies used, consumed, employed or expended in the construction, reconstruction, alteration, remodeling or repair of any building, structure, public highway, bridge or other such public work as well as such materials and supplies physically incorporated therein. Exemptions also include rental charges for construction vehicles, equipment and machinery rented specifically for use on the site of any tax-exempt project or while being used exclusively for the transportation of materials for any such tax-exempt project under Massachusetts General Laws, Chapter 64H, section 6(f). Form ST-5C applies only to the contract specified therein. You must record the name of the purchaser, the sales price and date of each separate sale made under such certificate. A copy of a valid Form ST-2, Certificate of Exemption, must be submitted at the time of sale. The contract number, or other identifying designation of an unnumbered contract, must appear on purchase orders and invoices. The vendor must retain a copy of Form ST-5C accompanied by Form ST-2 as well as other tax records. See Record Retention Regulation 830 CMR 62C.25.1.

3. Consulting or operating contractors purchasing certain property as agents of, and providing “qualified services” to governmental entities under MGL Ch. 64H, sec. 6(tt). “Consulting or operating contractors or subcontractors,” as defined in MGL Ch. 64H, sec. 6(tt) purchasing tangible personal property on behalf of, and acting as agents of, and providing “qualified services” (as defined in MGL c. 64H, sec. 6(tt)) to a governmental body or agency described in MGL Ch. 64H, sec. 6(d) must check Box 3 under Part C of Form ST-5C. Operating and consulting contractors or subcontractors who contract with a state governmental body or agency to furnish services relative to the feasibility, environmental impact, engineering, architecture, design, management or operation, of a public project or facility are exempt from the sales/use tax for purchases of tangible personal property made as agents of the state governmental body when that property is (i) completely expended in the performance of the contract, (ii) title and possession of the property is turned over to the governmental body or (iii) the property becomes an ingredient or component part of the property that will be turned over to the governmental body as part of the performance of the contract. Such contractors or subcontractors must attach a copy of the ex-

empt governmental entity’s Form ST-2 provided by the entity on whose behalf it is making the purchases. If the exempt governmental entity does not present its contractors or subcontractors with Form ST-2, the contractor/subcontractor must present other documentation evidencing its principal’s exempt governmental status. Overhead items purchased by contractors for their own use in performing contracts for exempt governmental entities are not eligible for this exemption. Rather, a consulting or operating contractor or subcontractor, as the consumer of such items, must pay sales/use tax on these purchases.

Any abuse or misuse of this certificate by any tax-exempt organization, or any unauthorized use of this certificate by any individual, constitutes a serious violation and will lead to revocation. Willful misuse of this Certificate of Exemption is subject to criminal sanctions of up to one year in prison and \$10,000 (\$50,000 for corporations) in fines.

If necessary, additional information may be obtained by calling the Customer Service Bureau at (617) 887-MDOR or toll-free, in Massachusetts, 1-800-392-6089.