



Internet Data Centers

Introduction

If you operate an Internet data center in New York State, certain property that you purchase for use in the data center and certain services related to this property are exempt from sales tax. This bulletin explains who is considered an operator of an Internet data center for purposes of the exemption, and which property and services are exempt from sales tax.

An *operator of an Internet data center* is a person who:

- operates a data center specifically designed and constructed as a high security environment for the location of servers and similar equipment that hosts Internet Web sites; and
- provides uninterrupted Internet access to customers' Web pages (i.e., 24 hours a day, 7 days a week, 365 days a year) and continuous management of Internet traffic for customers' Web sites.

Note: You don't qualify for this exemption if you're primarily engaged in the retail sale of your own Internet access service (i.e., providing connection to the Internet).

Exemption for tangible personal property

An operator of an Internet data center doesn't have to pay sales tax on the purchase or use of machinery, equipment, and certain other tangible personal property.

Property eligible for the exemption includes:

- computer system hardware, such as servers and routers;
- pre-written computer software;
- storage racks and cages for computer equipment;
- property necessary to maintain the appropriate climate-controlled environment, such as air-filtration equipment, air-conditioning equipment, and vapor barriers;
- power generators and power conditioners;
- property that will constitute raised flooring when installed; and
- other similar equipment.

The exemption also includes property related to:

- building systems that are designed for an Internet data center, such as interior fiber optic and copper cables;
- fire control, such as fire suppression equipment and alarms; and
- maintaining a secure environment, such as protective barriers.

Exempt property must be:

- placed or installed in the Internet data center for use there; and
- required for and directly related to providing Internet Web site services for sale.

Internet Web site services **must include**, but are not limited to, the uninterrupted access and continuous traffic management services mentioned above.

Exemption for services

Internet data center operators may purchase the following services exempt from tax when the services are provided directly to or in relation to exempt Internet data center property:

- installing, maintaining, servicing, and repairing qualified tangible personal property;
- maintaining, servicing, and repairing qualified real property; and
- protective and detective services.

If any of these services are for property some of which is taxable and some of which is exempt, an allocation may be used to determine the amount related to the exempt property. The exempt portion must be separately stated on the invoice given to the Internet data center operator or the whole invoice is subject to tax. Acceptable allocation methods include allocations based on square footage, time, or property values.

Example: A protective service is hired by an Internet data center operator to protect its three-story office building. Each floor in the building has 50,000 square feet of space. The Internet data center occupies the entire first floor. In this instance, an allocation of the total charge for the protective services based on square footage would be acceptable. Accordingly, one-third of the total charge would be exempt from tax if the exempt portion is separately stated on the invoice.

Exemptions for a contractor, subcontractor, or repairman

A contractor, subcontractor, or repairman may:

- buy property exempt from tax only when the property is to be part of a capital improvement project at the Internet data center;
- make tax-exempt purchases of services to install, maintain, service, or repair tangible personal property used for Web hosting.

Exemption certificates

An Internet data center operator should use [Form ST-121.5](#), *Exempt Use Certificate for Operators of Internet Data Centers (Web Hosting)*, when purchasing either property or services exempt from tax.

A contractor, subcontractor, or repairman should use [Form ST-120.1](#), *Contractor Exempt Purchase Certificate*, to purchase exempt property or services.

Note: A Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin.

References and other useful information

Tax Law: Sections 1115(a)(37) and 1115(y)

Memorandum:

[TSB-M-00\(7\)S](#), Sales and Use Tax Exemptions for Operators of Internet Data Centers (Web Hosting)