

**CONSTRUCTION CONTRACT EXEMPTION CERTIFICATE  
 AND STATEMENT OF DELIVERY IN INDIAN COUNTRY**

**NOTE TO SELLER AND PURCHASER**

Sales tax generally does not apply to the sale of fixtures to non-Native American contractors who furnish and install the fixtures in Indian country.

Generally, construction contractors are consumers of materials that are furnished and installed in the performance of a construction contract. As a consumer, tax generally applies to sales of materials to contractors who are not Native Americans. This is true even when the materials are delivered in Indian country and permanently attached to real estate in Indian country.

Under certain specific circumstances, a construction contractor performing a construction contract may qualify as a retailer of materials by meeting each of the following requirements:

- The contractor must be in the business of selling materials or other tangible personal property;
- The contractor must possess a valid seller's permit;
- The construction contract must explicitly provide for the transfer of title to the materials prior to the time the materials are installed, and must separately state the sales price of the materials, exclusive of the charges for installation; and
- The construction contractor must provide a valid and timely resale certificate to its vendor.

When the construction contractor qualifies as a retailer of materials, the retail sale of the materials by the contractor may qualify as exempt from tax as a sale to a Native American purchaser in Indian country provided each of the following requirements are met:

- The construction contract must separately state the price of materials, exclusive of the charge for installation;
- The contract must specifically provide that ownership of the materials (title) will transfer to the Native American customer in Indian country prior to use or installation of the materials;
- The materials must, in fact, be delivered to the Native American purchaser in Indian country; and
- The construction contractor must obtain an exemption certificate from the Native American purchaser.

This may be used to document that the sale was to a Native American purchaser residing in Indian country and/or to document that delivery occurred in Indian country. The section labeled *Exemption Certificate* may be used to document that the property was sold to a Native American purchaser residing in Indian country. Completion of this section in full by a Native American purchaser will provide the construction contractor with sufficient documentation that the property was sold to a Native American residing in Indian country. The construction contractor must also have a construction contract separately stating the sales price of the materials in addition to documentation showing transfer of ownership and delivery of the property to the Native American purchaser in Indian country. If the property is delivered by facilities of the retailer, proper completion of the *Statement of Delivery* and *Notary Statement* may serve as documentation that transfer of ownership and delivery of the property to a Native American purchaser occurred in Indian country. If the property is delivered via common carrier or contract carrier, completion of the *Statement of Delivery* and *Notary Statement* is not required. Instead, the retailer should retain a bill of lading or other documents showing delivery in Indian country along with a contract of sale or other sales agreement specifically showing title passing to the Native American purchaser in Indian country.

**EXEMPTION CERTIFICATE**

*(to be completed by purchaser)*

When accepted in good faith, this exemption certificate may be used for the purchase of fixtures and materials (but, as to materials, only if the construction contractor meets the requirements outlined above allowing the construction contractor to act as a retailer of materials) that will be furnished and installed in the performance of a construction contract. Please provide a complete description of the property purchased. If you intend to use this exemption certificate as a blanket exemption certificate to cover multiple transactions, please indicate this by including "all tangible personal property" in the *Description of Property Purchased* field below. Please note that the use of a blanket exemption certificate for multiple transactions will require proof of delivery of the property in Indian country for each transaction.

I hereby certify that the property described below is being purchased for use in Indian country and I am:

- A Native American residing in Indian country; or  A Native American organization in Indian country.

DESCRIPTION OF PROPERTY PURCHASED

NAME OF PURCHASER <i>(please print)</i>	DRIVER LICENSE NUMBER OR OTHER STATE ID	DAYTIME TELEPHONE NUMBER	
STREET ADDRESS	CITY	STATE	ZIP CODE
PURCHASER'S SIGNATURE		DATE	

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

**STATEMENT OF DELIVERY**

*(to be completed by seller)*

**NOTICE TO SELLER**

If you are delivering the materials or fixtures to the Native American purchaser in Indian country by your own facilities, you may use this *Statement of Delivery* to document delivery in Indian country. It is recommended that you also complete the *Notary Statement* below to document delivery of the property to the Native American customer in Indian country. The *Notary Statement* may be completed by a California notary public or by a duly authorized tribal official or his or her designee. If you are delivering the property to the Native American purchaser in Indian country by utilizing a common carrier or a contract carrier, you do not need to complete the *Statement of Delivery* or the *Notary Statement*. Instead, you should retain your bill of lading or other shipping documents as proof of delivery in Indian country along with your construction contract indicating ownership transferred in Indian country prior to installation.

I hereby certify, under penalty of perjury under the laws of the State of California, that the below described materials, fixtures, or other tangible personal property was delivered to the purchaser in Indian country on the date and at the place stated below.

DESCRIPTION OF PROPERTY		INVOICE OR CONTRACT NUMBER	
NAME OF RESERVATION	ADDRESS <i>(street, city, ZIP Code)</i>	DATE OF DELIVERY	
NAME OF SELLER	SELLER'S PERMIT NUMBER	DAYTIME TELEPHONE NUMBER	
STREET ADDRESS	CITY	STATE	ZIP CODE

I have delivered the above-described tangible personal property to the purchaser named above.

NAME <i>(please print)</i>	
SIGNATURE	DATE

**NOTARY STATEMENT**

*(to be completed by California notary public or authorized tribal representative)*

State of California

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

On \_\_\_\_\_ before me, \_\_\_\_\_  
*NOTARY*

personally appeared \_\_\_\_\_,  
*SIGNER(S)*

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

*(Place Notary Public Seal and/or Stamp Above)*

**Fraudulent use of this statement to avoid the payment of California sales and use tax can result in severe penalties.**