

Nebraska Common or Contract Carrier

Overview

The purchase, lease, or rental of motor vehicles, trailers, semitrailers, watercraft, and aircraft (vehicles) used predominantly as common or contract carrier vehicles, and repair and replacement parts for these vehicles, are exempt from sales and use taxes.

The sales tax exemption for vehicles used predominantly in a common or contract carrier capacity is vehicle-specific. Passenger cars, pickup trucks, vans, and other business vehicles that are not predominantly used in a common or contract carrier capacity do not qualify for this exemption even if they are owned by a business that has been issued a Nebraska Common or Contract Carrier Certificate of Exemption (Certificate of Exemption).

The Certificate of Exemption must be renewed every five years.

This guidance document is advisory in nature but is binding on the Nebraska Department of Revenue (Department) until amended. A guidance document does not include internal procedural documents that only affect the internal operations of the Department and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.



This guidance document may change with updated information or added examples. The Department recommends you do not print this document. Instead, sign up for the [subscription service](#) at revenue.nebraska.gov to get updates on your topics of interest.

Terms

Common Carrier Vehicle. A common carrier vehicle is any vehicle predominantly used for transporting the general public, or the property of the general public, for compensation.

Contract Carrier Vehicle. A contract carrier vehicle is any vehicle predominantly used for transporting, on a contractual basis, specific persons, or the property of specific persons, for compensation.

Deadhead Miles. Deadhead miles are miles the vehicle traveled empty going to load the property; miles traveled empty between loads; and miles traveled empty when returning to home base after unloading the property hauled.

Predominant Use. Predominant use as a common or contract carrier means the vehicle is used **more** than 50% of the time in transporting persons or property for hire.

Calculating Predominant Use

Predominant use as a common or contract carrier means the vehicle is used more than 50% of the time to transport persons or property for compensation. To determine the predominant use, the applicant completing the Nebraska Exemption Application for Common or Contract Carrier's, Form 5, must divide the total number of miles or hours the vehicle was used by the applicant to transport persons or property for hire, including all related common or contract carrier deadhead miles, by the total number of miles or hours the vehicle was used by the applicant for all purposes. If the vehicle was leased to another person during the same period of operation, the miles or hours accumulated by the lessee should not be considered. When determining the percentage of use, please use the most recently completed income tax year as your period of operation.

Example:

Motor Vehicle #106	
Odometer reading January 1	73,146 miles
Odometer reading December 31	<u>160,409 miles</u>
Total miles (160,409 - 73,146)	87,263
Common/contract carrier miles from customer billing records and related deadhead miles	75,919
Percentage of common/contract carrier usage (75,919 ÷ 87,263)	87%

The percentage of use in a common or contract carrier capacity must be calculated for every vehicle listed on [Nebraska Exemption Application for Common or Contract Carrier's Sales and Use Tax, Form 5, Schedule A](#). The calculation is done in Columns A through D on Schedule A. If the vehicle is new, you must estimate the qualified and nonqualified miles of usage for the next 12 months.

Vehicles used predominantly to transport the company's own property, including all related deadhead miles, will not qualify for the exemption.

Nonqualified Uses of Vehicles

Nonqualified use is any use of a vehicle other than to transport persons or property for hire. If vehicles are used to transport a company's own property and equipment, the miles traveled are not common or contract carrier miles. Some examples of nonqualified use include vehicles used by:

- ❖ Recycling service companies;
- ❖ Construction contractors;
- ❖ Custom grain harvesters;
- ❖ Farm cooperatives;
- ❖ Farmers;
- ❖ Garbage haulers;
- ❖ Grain dealers;
- ❖ Land leveling and excavation companies;
- ❖ Rock, sand, and gravel companies; and
- ❖ Water haulers.

In addition, passenger cars, pickup trucks, vans, and other business vehicles that are not predominantly used in a common or contract carrier capacity do not qualify for this exemption even if they are owned by a company that has been issued a Certificate of Exemption.

The fact that a company has been granted one or more of the following certificates or permits does not, by itself, make the purchase of the vehicle exempt from Nebraska sales and use taxes:

- ❖ Certificate of Public Convenience and Necessity or other permit issued by the Nebraska Public Service Commission (PSC);

- ❖ Certificate of Public Convenience and Necessity or other permit issued by the Federal Motor Carrier Safety Administration; or
- ❖ Federal Aviation Administration Certificate Number.

Certificate of Exemption

For a vehicle to qualify for this exemption, the person who owns or leases the vehicle must submit [Form 5, and Form 5, Schedule A](#), to the Department. There is no fee for the Certificate of Exemption that is issued by the Department. All exemption certificates will expire on October 31, 2018, and must be renewed every five years. Applications must be printed from the Department's website and faxed, hand delivered, or mailed to the Department for processing.

Vehicles that are added to a company's operation after the Certificate of Exemption has been issued, may qualify for the sales and use tax exemption, provided records are maintained to support the use of the vehicles as common or contract carriers. A company that holds a current Certificate of Exemption is not required to submit another application to add qualifying vehicles to its operations until the next renewal period.

Tax Exempt Purchases

A company holding a valid Common or Contract Carrier Certificate of Exemption is authorized to make the following exempt purchases:

- ❖ Vehicles to be used as common or contract carrier vehicles;
- ❖ Accessories purchased for use with a common or contract carrier vehicle that could have been included in the list price of the vehicle at the time of purchase, including load locks and bulkhead equipment used as cargo control items to protect against shifting loads or to divide cargo into separate compartments;
- ❖ Containers, tarps, and tie-downs designed for use on transportation equipment;
- ❖ Equipment and protective clothing for the health or safety of passengers or property required by a federal or state regulatory agency to be included on or in a common or contract carrier vehicle operating in or through the State of Nebraska; and
- ❖ Repair and replacement parts that become a physical part of a common or contract carrier vehicle, including motor oil, oil filters, air filters, window washer fluid, tires, and diesel exhaust fluid (DEF).

Purchases of repair and replacement parts and accessories must be supported by a properly and fully-completed [Nebraska Resale or Exempt Sale Certificate, Form 13](#), Section B, Exempt Category 4, including the purchaser's common or contract carrier exemption number issued by the Department. This form must be kept by the seller.

Purchases of vehicles to be used as common or contract carrier vehicles must be supported by completing the Exempt Certificate portion of the [Nebraska Sales/Use Tax and Tire Fee Statement for Motor Vehicle and Trailer Sales, Form 6](#), entering the purchaser's common or contract carrier exemption number issued by the Department in Exemption Category 2.

Taxable Purchases

Listed below are some examples of property and services which **cannot** be purchased sales tax exempt by a business that has been issued a Certificate of Exemption:

- ❖ Boxes, wrapping paper, tape, pads, and packing materials;
- ❖ Office equipment, furnishings, and supplies;
- ❖ Tools and other shop equipment;

- ❖ Towing services;
- ❖ Vehicles used by the business to transport its employees, property, or repair and replacement parts for the qualified vehicles; and
- ❖ Washing or waxing services.

Nebraska Income Tax

For-hire trucking companies transporting property over Nebraska roads are subject to the Nebraska income tax when their services are physically performed in Nebraska. These businesses are subject to the Nebraska income tax if their activities during the taxable year meet at least one of the following criteria:

- ❖ The business makes any pick-ups or deliveries in Nebraska;
- ❖ The business's vehicles make more than 12 trips into Nebraska;
- ❖ The business owns, leases, or rents any real or personal property in Nebraska, not counting its mobile property; or
- ❖ The business's vehicles travel more than 25,000 mobile property miles in Nebraska, or the total mobile property miles traveled in Nebraska during the taxable year exceeds 3% of the total mobile property miles traveled in all states.

See [Revenue Ruling 24-08-1](#). If the trucking company is subject to income tax in Nebraska and in at least one other state, it must apportion its income as provided in [Reg-24-343, Special Apportionment Rules: All Tax Years; Trucking Companies](#).

Lessors of Vehicles

An owner-operator or other person who leases vehicles to other businesses or transportation companies is a lessor.

You are considered a "lessor" when control and use of the vehicle is determined by the lessee. In these situations, the following factors are often present:

- ❖ The lessee has the agreement with the shipper to transport a product;
- ❖ The lessee's license plates are on the vehicle (or in some cases involving owner-operators, the lessor obtains the plate in his/her own name);
- ❖ The lessee's federally-required USDOT or MC operating authority number is placed on the vehicle;
- ❖ The lessee's name is on the vehicle; and
- ❖ The lessor operates under the lessee's federal or Nebraska PSC operating authority – if required.

All lessors must collect sales tax from their lessees on the gross receipts derived from use of the leased vehicles, **unless** the vehicles are leased to a common or contract carrier that has given the lessor a properly and **fully completed** [Form 13](#), Section B, Exempt Category 4.

Purchases For Resale. Lessors who have a Nebraska sales tax permit may purchase and register vehicles without payment of sales tax provided the vehicles will be leased to individuals or businesses 100% of the time. Lessors are purchasing these vehicles for resale and may also purchase repair and replacement parts for these vehicles without paying sales tax. To purchase repair or replacement parts, the lessor must issue a properly and fully completed [Form 13](#), Section A, to the Nebraska seller. Additional resale purchases are listed in the [Nebraska Sales Tax on Leased Motor Vehicles Information Guide](#) and in [Reg-1-019, Rental or Lease of Vehicles](#). A lessor that is not licensed must obtain a Nebraska sales tax permit by filing a Nebraska Tax Application, Form 20.

Resource List

Forms

- ❖ [Nebraska Resale or Exempt Sale Certificate, Form 13](#)

Nebraska Sales and Use Tax Regulations

- ❖ [Reg-1-019, Rental or Lease of Vehicles](#)
- ❖ [Reg-1-069, Common and Contract Carriers](#)
- ❖ [Reg-1-099, Motor Vehicle Services](#)

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