

NEBRASKA COMMON OR CONTRACT CARRIER

OVERVIEW

The sales tax exemption for vehicles used predominantly in a common or contract carrier capacity is vehicle-specific.

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

The Nebraska Common or Contract Carrier Certificate of Exemption must be renewed every three years.

This information guide is intended to provide an overview. Nothing in this guide supersedes, alters, or otherwise changes any provisions of the Nebraska tax code, regulations, Nebraska Department of Revenue (Department) rulings, or court decisions.



This information guide may change with updated information or added examples. The Department recommends you do not print this guide. Instead, sign up for the subscription service at www.revenue.ne.gov to get updates on your topics of interest.

TERMS

Common Carrier Vehicle. A common carrier vehicle is any vehicle predominantly used by its owner to transport the general public, or the property of the general public, for compensation.

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

Deadhead Miles. Deadhead miles are miles the vehicle traveled empty when:

- ❖ Going to load the property;
- ❖ Between loads; and
- ❖ Returning to home base after unloading the property.

Miles between loads on a single trip are not deadhead miles and are treated the same as the load.

Predominant Use. Predominant use as a common or contract carrier means the vehicle is used MORE than 50% of the time to transport the general public, or the property of the general public, for compensation. To calculate predominant use, divide the vehicle's use to transport the general public, or the property of the general public, by the total use of the vehicle for all purposes. Please see the paragraph below on calculating predominant use.

Calculating Predominant Use. To determine the vehicle's predominant use as in a common or contract carrier capacity, divide the total number of miles or hours the vehicle was used to transport persons and property for hire, including all related common or contract carrier deadhead miles, by the total number of miles or hours the

vehicle was used for all purposes. When determining the percentage of use, 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</u> miles
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 Form 5, Schedule A. The calculation is done in Columns A through D on Schedule A.

Owners and lessees who predominantly use vehicles to transport their own property, plus all related deadhead miles, are private carriers. Vehicles used in this manner do not qualify for the exemption.

NONQUALIFIED USES OF VEHICLES

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

- ❖ Construction contractors;
- ❖ Custom grain harvesters;
- ❖ Farm cooperatives;
- ❖ Garbage haulers;
- ❖ Grain dealers;
- ❖ House movers;
- ❖ 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.

The fact that an owner or lessee of a vehicle has been granted one or more of the following certificates or permits does not, by itself, qualify 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;
- ❖ 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 owner or lessee of the vehicle must submit a [Nebraska Exemption Application for Common or Contract Carrier's Sales and Use Tax, Form 5 and Form 5, Schedule A](#), to the Department. There is no fee for the certificate. Current exemption certificates will expire on October 1, 2010, and must be renewed every three years.

Vehicles that are added to a business operation after the Certificate of Exemption has been issued, may qualify for the sales and use tax exemption, provided there is evidence that they are used predominantly in a common or contract carrier capacity. A business 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.

TAXABLE PURCHASES

Listed below are some examples of property and services which **cannot** be purchased tax exempt by common or contract carriers:

- ❖ Boxes, wrapping paper, tape, other pads, and packing materials;
- ❖ Office and shop equipment, furnishings, and supplies;
- ❖ Tools;
- ❖ Towing services;
- ❖ Vehicles that will be used to transport property owned by, or employees of, the person who holds a Nebraska Common or Contract Carrier Certificate of Exemption; and
- ❖ Washing or waxing services.

TAX EXEMPT PURCHASES

Owners or lessees of qualified vehicles who have been issued a Nebraska Common or Contract Carrier Certificate of Exemption, may purchase only the following items tax exempt:

- ❖ Vehicles used as common or contract carrier vehicles;
- ❖ Accessories purchased for use with the common or contract carrier vehicle that could have been included in the list price of the vehicle at the time of purchase. Accessories include load locks and bulkhead equipment used as cargo control items to protect against shifting loads or to separate cargo into separate compartments;
- ❖ Containers designed for use on transportation equipment. Containers include tarps and tie-downs;
- ❖ Equipment that is 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 for the health or safety of passengers or property; and
- ❖ Repair and replacement parts that become a physical part of a common or contract carrier vehicle. Repair and replacement parts include motor oil, oil filters, air filters, window washer fluid, tires, and other repair parts.

Documenting Tax Exempt Purchases. All tax exempt purchases **must** be supported by appropriate documentation.

Purchases of repair and replacement parts and accessories must be supported by a properly completed [Nebraska Resale or Exempt Sale Certificate, Form 13](#), Section B, with the purchaser's exemption number. This form must be kept by the seller.

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

Out-of-State Purchases. The Nebraska common or contract carrier exemption does not extend to purchases made in another state. In addition, transportation companies cannot use another state's common or contract carrier certificate of exemption, or operating authority issued by the federal government, to purchase the vehicle or repair and replacement parts tax exempt.

NEBRASKA INCOME TAX

Most trucking companies transporting property over Nebraska roads are subject to the Nebraska income tax because their services are physically performed in Nebraska. However, trucking companies are not required to apportion income to Nebraska if the company's activities within Nebraska do not exceed the de minimis standard outlined below. For additional information please see [Revenue Ruling 24-08-1](#).

Trucking companies transporting property over Nebraska roads are NOT subject to the Nebraska income tax when they:

- ❖ Do not own or rent any real or personal property in this state, except mobile property;
- ❖ Do not make any pick-ups or deliveries within this state;
- ❖ Do not travel more than 25,000 mobile property miles within this state, provided that the total mobile property miles traveled within this state during the income year does not exceed three percent of the total mobile property miles traveled in all states by the trucking company during that period; or
- ❖ Do not make more than 12 trips into this state.

A trucking company is required to apportion income to this state when, during the course of the income year, it meets any one or more of the above criteria.

LESSORS OF VEHICLES

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

A lease or rental occurs when the person to whom a vehicle is leased or rented exercises control over the vehicle. The lessee is exercising control when:

- ❖ A written lease agreement is executed and the agreement states that the lessor leases the vehicle to the lessee;
- ❖ The lessee's federally-required permit authority to transport a regulated commodity is placed on the vehicle;
- ❖ The lessee's name is on the vehicle; and
- ❖ The lessee is required to register or license the vehicle.

A lessor must:

- ❖ Obtain a Nebraska Sales Tax Permit by filing a [Nebraska Tax Application, Form 20](#);
- ❖ Collect sales tax from the lessee, unless the lessee holds a valid Nebraska Common or Contract Carrier Certificate of Exemption. The lessee must provide the lessor a properly completed [Nebraska Resale or Exempt Sale Certificate, Form 13](#), Section B, Category 4; and
- ❖ File a [Nebraska and Local Sales and Use Tax Return, Form 10](#). This return must be filed by the due date, whether or not there is tax due. The return may be filed electronically.

Lessors who hold a Nebraska Sales Tax Permit may purchase and register the vehicles to be leased without paying the tax on the purchase price, because the lessor is purchasing the vehicles for resale. In addition, repair and replacement parts for the leased vehicles may be purchased tax exempt (for resale), provided the repair and replacement parts become a physical part of the leased vehicles.

To purchase repair and replacement parts tax exempt for resale, the lessor must issue the seller a properly completed Form 13, Section A. Please refer to [Sales and Use Tax Reg. 1-019](#) or the Department's information guide titled "[Nebraska and Local Sales Tax on Motor Vehicles](#)."

RESOURCE LIST

Nebraska 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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