

State of New Mexico - Taxation and Revenue Department
**Manufacturers Agreement to Pay Gross Receipts Tax
on Behalf of a Utility Company for Certain Utility Sales**

Both utility company and the manufacturer or manufacturing service provider must execute this agreement in order to take advantage of the deduction for the sale of a manufacturing consumable that is a utility. This agreement is not effective until it has been approved by the Department. The deduction may not be taken until a Type 12 Nontaxable Transaction Certificate (NTTC) has been executed to the utility company by the manufacturer or manufacturing service provider. Effective January 1, 2022, this deduction, provided under Section 7-9-46(B), is also allowed for sales to a manufacturing service provider. By signing this agreement and executing the Type 12 NTTC to the utility company, the manufacturer or manufacturing service provider agrees to pay the gross receipts tax due for the sale of utilities that were **NOT** consumed in the manufacturing process. The manufacturer or manufacturing service provider hereby agrees to report the gross receipts for utilities sold to it, and pay the gross receipts tax due for any portion that does not qualify for the deduction.

Name of Manufacturing Business	Effective Date of This Agreement	
FEIN (or SNN)	NM Business Tax Identification Number (NMBTIN)	
Name of Contact	Phone Number	E-mail Address
Enter the physical location of the facility where the manufacturing process occurs and subject utilities are consumed.		
Physical Address		
City	State	ZIP
Name of the company supplying the utility to the physical address above.	Your account number with the utility company.	
Indicate the type of utility sold that is partially or fully consumed in the manufacturing process (i.e. electricity, natural gas, water, etc.). If other, describe the utility.	Meter number	

Statement of Utility Company

We _____, the utility company, confirm that we are selling the above stated utilities to the applicant's facility named above, and that the statement of the physical address, the utility account and meter numbers for the manufacturing company and the description of the type of utility that is sold to the manufacturer are correct and true. We understand that by signing this agreement **and** accepting a Type 12 NTTC, we must report to the Taxation and Revenue Department on the Gross Receipts Tax Return, the deduction of the sale of the utility to the manufacturer as described in these instructions, and the associated gross receipts tax on any portion of the utilities sold that are not consumed in the manufacturing process, are the responsibility of the manufacturer, and are to be reported and paid by the manufacturer. We also understand that this agreement expires 3 years after the effective date of the agreement.

I declare I have examined this agreement, and to the best of my knowledge and belief the information contained in this agreement is true, correct and complete.

Signature of Authorized Representative of the Utility Company

Date

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Statement of Manufacturer or Manufacturing Service Provider

We, _____, a manufacturing company (applicant), purchase utilities from the New Mexico utility company who owes gross receipts tax and for whom we are obligated to report and submit payment of such tax to the New Mexico Taxation and Revenue Department under this agreement. We agree to accept liability for the reporting and payment of the New Mexico gross receipts tax on certain New Mexico sales of utilities to us that are purchased, but not consumed, in our manufacturing process and therefore are not deductible pursuant to Section 7-9-46(B) NMSA 1978. We agree to report and pay, on behalf of the seller of the utilities, the gross receipts tax as instructed by the Department, using our New Mexico Business Tax Identification Number. The gross receipts tax remitted for each utility company shall be computed at the rate applicable to the identified location of the applicant's manufacturing company utility meters. We understand that failure to correctly report and pay the tax associated with these sales may result in the assessment of additional tax, penalty and interest. **IN ADDITION, OUR ABILITY TO USE ANY NONTAXABLE TRANSACTION CERTIFICATES MAY BE REVOKED BY THE DEPARTMENT.** We agree to provide to the Department, in a timely manner, written verification that the applicant is a customer in good standing of the above-listed utilities. The applicant agrees to notify the Department of any material change in the manufacturing activities at the described location that impact the consumption of subject utilities in the manufacturing processes, including the re-filing or amendment of this application as required to correctly reflect the conscription of utilities in the manufacturing process. We further agree to maintain records sufficient to document the deduction from gross receipts for the sale of a manufacturing consumable that is a utility. We understand that this agreement may be revoked by written notice by the Taxation and Revenue Department or us without a need to show cause. We agree to give written notification to each of our New Mexico vendors upon revocation of this agreement by either party within 15 days. This agreement supersedes any prior agreements to collect taxes for vendors entered into with the New Mexico Taxation and Revenue Department.

This agreement will expire 3 years after the effective date of the agreement.

By signing this agreement the manufacturer expressly agrees that the utility company may release all necessary information related to the customer's account and sales of the utility to the customer as is required by the Department to administer the agreement and the corresponding nontaxable transaction certificate.

I declare I have examined this agreement, and to the best of my knowledge and belief the information contained in this agreement is true, correct and complete.

Signature of Authorized Representative of the Manufacturer

Date

For Department Use Only

The Taxation and Revenue Department has reviewed and approves this agreement.

Signature of Secretary or Delegate

Date

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Instructions

About this Deduction. For purchases of utilities made on or after January 1, 2013, a deduction is available for receipts from selling a manufacturing consumable to a manufacturer or a manufacturing service provider. A manufacturing consumable is tangible personal property, other than qualified equipment or an ingredient or component part of a manufactured product, that is incorporated into, destroyed, depleted or transformed in the process of manufacturing a product. This includes electricity, fuels, water, manufacturing aids and supplies, chemicals, gases and other tangibles used to manufacture a product. For the sale of a manufacturing consumable that is a utility, the manufacturer or manufacturing service provider must deliver a Type 12 nontaxable transaction certificate (NTTC) to the seller. Therefore, in order to take advantage of the deduction, the manufacturer or manufacturing service provider must apply for a Type 12 NTTC. The RPD-41377, *Manufacturers Agreement to Pay Gross Receipts Tax on Behalf of a Utility Company for Certain Utility Sales*, is required to be submitted when applying for the Type 12 NTTC.

For information on the deduction for the sale of a manufacturing consumable, other than a utility, see the FYI-275, *Deductions for Certain Sales to Manufacturers*, or Form RPD-41378, *Application for Type 11 or Type 12 Nontaxable Transaction Certificates*.

Effective Date of This Agreement

Enter the beginning date of the period for which this agreement is effective. This agreement is effective for three years from the effective date of this agreement. A new agreement must be established and a new Type 12 NTTC must be obtained and executed for periods that extend beyond the dates of this agreement.

Applying For Type 12 NTTCs

If the manufacturer applying for the Type 12 NTTC has more than one manufacturing facility, a new Form RPD-41377 must be completed for each location. If the manufacturer consumes more than one utility in the manufacturing process, a new Form RPD-41377 must be completed for each utility. The manufacturer and the utility company must verify the purchaser, the physical location of the manufacturing facility based on the meter location, the account number that the utility company uses to bill the purchaser, and the type of utility sold.

When applying for the Type 12 NTTC for a manufacturing consumable that is a utility, the applicant must submit Form RPD-41378, *Application for Type 11 or Type 12 Nontaxable Transaction Certificates*, and this agreement, Form RPD-41377, *Manufacturers Agreement to Pay Gross Receipts Tax on Behalf of a Utility Company for Certain Utility Sales*. The manufacturing business and the utility company must both sign the agreement, Form RPD-41377. The utility company may not take the deduction until the manufacturer executes a Type 12 NTTC to the utility company.

The application for a Type 12 NTTC must also include the appropriate section of RPD-41378, based on the type of utility consumed. Include:

- **Section E**, if electricity is consumed in the manufacturing process;
- **Section G**, if natural gas is consumed in the manufacturing process;
- **Section W**, if water is consumed in the manufacturing process, or
- **Section O**, if any other utility is consumed in the manufacturing process.

For more information for the application process for a Type 12 NTTC and reporting requirements, see Form RPD-41378, *Application for Type 11 and Type 12 Nontaxable Transaction Certificates*.

Reporting Requirements of the Utility Company

The utility company that has signed this agreement and has been executed a Type 12 NTTC by the manufacturer or manufacturing service provider, reports the gross receipts of the utilities sold to the manufacturer and deducts 100% of the receipts. The utility company reports the receipts separately from other receipts and must use the deduction code "D0-003" on the gross receipts tax return.

Reporting Requirement of the Manufacturer

The manufacturer that has signed this agreement and has executed a Type 12 NTTC to the utility company is also required to report the utility company's sales on their gross receipts tax return using a special method. The manufacturer's special reporting requirements are described on Form RPD-41378, *Application for Type 11 or Type 12 Nontaxable Transaction Certificates*.