

**CBJ SALES TAX OFFICE
ADMINISTRATIVE GUIDELINES
RELATED PARTY EXEMPTION
Procedure 439**

For the purposes of these guidelines, the following terms shall bear the following meanings:

“Person” includes a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person.

“Identical legal composition” for the purposes of this subsection means an entity made up of the same persons having the same kind or degree of interest.

The “same kind” means that an individual, marital, shareholder, partnership, or member each has at minimum a 5% interest in both the real property and the business.

The “same degree” would mean that an individual, marital, shareholder, partnership, or member has the same 40/50/60 percent interest in both parties to the transaction.

Two exceptions apply to the “same kind” and “same degree” requirement:

- 1) The first party to the transaction is comprised of a “trust” then each natural person beneficiary of the trust must be an owner in the second party to the transaction.
- 2) The first party to the transaction is a “wholly-owned subsidiary” or “parent corporation” of the second party to the transaction.

69.05.040(39) Transactions between entities having identical legal composition, as certified by an exemption certificate issued by the sales tax administrator. "Transactions" means retail sales, rentals of real property, rentals and sales of tangible personal property, leases including capital leases and operating leases, and services performed.

(a) As used in this subsection, a transaction is "between entities having identical legal composition," if the following two conditions are satisfied:

(1) One party to the transaction:

(A) Comprises or is owned by the same persons who comprise or own the other party to the transaction, each of whom owns:

(i) At least five percent of each legal entity that is a party to the transaction; or

(ii) The same percentage of one party to the transaction as that person owns of the other party; or

(B) Is a wholly-owned subsidiary or a parent corporation of the other party to the transaction; or

(C) Is a wholly-owned subsidiary, and the other party to the transaction is a wholly-owned subsidiary, both of which are owned by the same parent corporation; or

(D) Is a trust, the beneficiaries of which are the same natural persons who comprise or own the other party to the transaction; and

(2) *Neither party to the transaction is a publicly traded corporation.*

The intent of the Assembly is to provide tax relief on transactions between related parties. Related parties are generally created when businesses seek to protect certain business activities by separating them from their other business activities.

The exemption language adopted by the Assembly requires that both parties to the transaction have “identical legal composition.” However, it does not require that both parties to the transaction have identical forms of organization.

While it would be impossible to provide examples of every possible combination of business entity formations and ownership, the following template can be used to determine qualification for the exemption.

Complete the template and answer the questions that follow.

1. On the left hand side list the owners of the first party to the transaction and their percentage of ownership in the business.
2. On the right hand side list the owners of the second party to the transaction and their percentage of ownership in the business.

First Party	% Ownership		Second Party	% Ownership

Answer the following questions:

Question	Yes	No
1. Are the owners listed on both the left side and the right side identical? If the answer is NO stop, you do not qualify.		
2. Are the ownership percentages on the both the left side and the right side identical? If the answer is YES and the answer to question one is YES, submit a complete application.		
3. Does each owner of the first party own more than 5%?		
4. Does each owner of the second party own more than 5%?		
If the answers to both question 3 & 4 are YES, submit a completed application. If the answer to either 3 or 4 are NO, stop you do not qualify.		