

ANALYSIS OF STATE LAWS ON DIGITAL GOODS AND SOFTWARE

State	Status of Taxation of Digital Goods and Software	Authority
Alabama	Taxes computer software (including custom) as defined; does not tax data processing; no guidance on SasS; plans to broaden taxation of digital products through a comprehensive legislative approach.	Ala. Admin. Code §810-6-1-.37(4)
Alaska	No state sales tax	
Arizona	Taxes some digital goods in absence of boilerplate definitions; taxes canned, but not custom software or data processing; SasS classified as leases; extranet hosting services as non-taxable personal services	Ariz. Rev. Stat. Ann. §42-5001(16)
Arkansas	Defines and taxes two categories of specified digital goods: Digital audio-visual works and Digital audio work; pre-written computer software taxable if delivered by tangible medium but not if accessed electronically or by load and leave; custom software and data processing not taxable; no guidance issued on SasS	Ark. Code Ann. § 26-52-301; Ark. Code Ann. §26-52-304(a)(1)(A)
California	Prewritten software taxable; Load and Leave not taxable; custom software not taxable; sale of electronic data products (software, data, digital books (eBooks), mobile applications, and digital images) generally not taxable when transmitted to customers over the Internet unless as part of the sale, customer is provided with a printed copy of the electronically transmitted information or a backup data copy on a physical storage medium such as a flash drive, the entire sale is taxable; the tax applies to conversion of customer-furnished data from one physical form of recordation to another physical form; but the tax does not apply if the original information is developed from customer-furnished data, tax does not apply to charges for the service.	Cal. Rev. & Tax. Cd. §6010.9; California Sales and Use Tax Annotation No. 120.0531, 00/00/0000; California Department of Tax and Fee Administration Publication No. 109, 02/01/2020; Cal. Code Regs. 18 §1502(d)
Colorado	Digital goods (audio, video, and book download) taxable as TPP because digital goods have a physical existence; computer software is taxable TPP if meets specified criteria including being prepackaged and delivered through a tangible medium; software is not delivered through a tangible medium if delivered thru an application service provider, electronic delivery or load and leave; no specific SasS guidance, but ruling analyzing if object of what is being provided in more of sale of service or goods.	Colo. Rev. Stat. §39-26-104(1)(a) ; Colo. Rev. Stat. §39-26-102(15)(a)(I) ; Colorado General Information Letter No. GIL-11-014, 07/29/2011; Colo. Rev. Stat. §39-26-102(15)(c)(I) ; Colorado FYI Tax Publication No. Sales 89, 03/01/2012

Connecticut	<p>Sales of digital goods defined as audio works, visual works, audio-visual works, reading materials or ring tones electronically accessed or transferred (downloaded or streamed) are taxable (examples include electronically accessed or transferred: music; audiobooks; podcasts; stock photos or artwork; clip art; greeting cards; movies; videos; entertainment programs; magazines and books); Effective 10/1/19, canned or prewritten software, and any additional content related to such software, whether or not provided with any tangible personal property, that is sold for non-business use is considered to be tangible personal property taxable at the standard 6.35% rate, instead of the 1% rate for computer and data processing services (examples include consumer-based computer programs; computer games; digital game content; smart phone applications; in-app purchases of content or subscriptions; and any other consumer-level software); Sales of such software to a business for use by the business will remain taxable at the 1% rate for computer and data processing services; Since custom software is not tangible personal property, a fee or charge for the mere use and possession of custom or customized software is exempt from tax, so long as the fee is stated separately from the charges for any taxable services; Computer and data processing services are currently subject to tax at a lower rate of 1% (examples include time, programming, code writing, modification of existing programs, feasibility studies and installation and implementation of software programs and systems even where such services are rendered in connection with the development, creation or production of canned or custom software or the license of custom software, but excludes digital goods); Although Connecticut has not issued specific guidance on the taxation of cloud computing or SaaS, it is believed that the state would likely view such transactions as a taxable computer or data processing service; recurring subscription fee (monthly or annual) to access digital content over the Internet is subject to sales and use tax as taxable computer and data processing services.</p>	<p>Conn. Gen. Stat. §12-407(a)(13) ; Conn. Gen. Stat. §12-407(a)(37)(A) ;Conn. Gen. Stat. §12-408(1) ; Connecticut Special Notice No. 2019(8), 09/04/2019; Conn. Gen. Stat. §12-407(a)(13) ; Connecticut Special Notice No. 2019(8), 09/04/2019; Conn. Gen. Stat. §12-407(a)(36) ; Connecticut Policy Statement No. 2006(8), 03/23/2007; Conn. Gen. Stat. §12-407(a)(37)(A) ; Conn. Agencies Regs. §12-426-27(b)(1) ; Connecticut Legal Ruling No. 2015-5, 11/03/2015; Conn. Agencies Regs. §12-426-27(b)(1)</p>
Delaware	No state sales tax	
Florida	<p>Charge for furnishing information by electronic image that appears on a subscriber's video display screen is not a sale of TPP and not taxable as an information service. [Fla. Admin. Code Ann. §12A-1.062(5) .] This codifies the decision in <i>Department of Revenue v.</i></p>	<p>Fla. Admin. Code Ann. §12A-1.062(5); Florida Technical Assistance Advisement No. 05A-026,</p>

	<p><i>Quotron Systems, 615 So.2d 774 (Fla. 3d DCA 1993)</i>; sale of prewritten software over the Internet not subject to tax because no TPP is transferred. Monthly fees for electronic access to software not taxable if software accessed electronically; Licenses for use of software accessed electronically not sales of TPP and not taxable is no transfer of TPP as a part of the transaction. [Florida Technical Assistance Advisement No. 05A-026, 06/02/2005.]; Custom software not taxable; prepackaged software taxable; no specific guidance on cloud computing but monthly fees allowing access to pre-written software not taxable if accessed electronically; if taxpayer is not selling tangible personal property, and is only selling a data processing service, the charges are not subject to tax;</p>	<p>06/02/2005; Florida Technical Assistance Advisement No. 03A-020, 04/30/2003 ; Fla. Admin. Code Ann. §12A-1.032(4); Fla. Admin. Code Ann. §12A-1.032(4) ; Florida Technical Assistance Advisement No. 05A-026, 06/02/2005; Fla. Stat. §212.08(7)(v) ; Florida Technical Assistance Advisement No. 00A-024, 05/18/2000</p>
Georgia	<p>Has similar TPP definition as LA; Digital Products not taxed; prewritten software sold in tangible medium taxable; prewritten software via electronic or load and leave exempt; custom software via any medium exempt; cloud computing services not subject to sales and use tax because cloud subscription services are not among the enumerated taxable services, and such services do not include the transfer of TPP</p>	<p>Ga. Code Ann. §48-8-30 ; Ga. Code Ann. §48-8-30 ; Ga. Comp. R. & Regs. §560-12-2-.111; Georgia Letter Ruling No. LR SUT-2014-01, 02/20/2014</p>
Hawaii	<p>Digital Products (e.g., downloaded or electronically transferred or transmitted digital audio, music, or books) subject to excise tax as telecommunications services; Sales of computer hardware and software, whether prewritten (canned), custom or downloaded are considered retailing and are generally subject to general excise (sales) tax as the sales or use of TPP</p>	<p>Haw. Rev. Stat. §237-13(6)(C) ; ; Haw. Rev. Stat. §237-13(2)(A) ; Haw. Rev. Stat. §237-1</p>
Idaho	<p>Sales tax due on digital goods (canned software, digital subscriptions, digital books, tutorials, and audio/visual files) if not exempt; exclusions for: computer software delivered electronically; remotely accessed computer software; and computer software delivered by load and leave method where the vendor or its agent loads the software at the user's location but does not transfer any tangible personal property containing the software to the user; TPP includes computer software that constitutes digital music, digital books, digital videos, and digital games when the purchaser has a permanent right to use such software and, regardless of the method of delivery or access; if the right to use digital</p>	<p>Idaho Code §63-3616(b) ; Idaho Admin. Rules §35.01.02.027(03) ; Idaho Admin. Rules §35.01.02.027(04) ; Idaho Admin. Rules §35.01.02.027(06) ; Idaho Admin. Rules §35.01.02.027(07) ; Idaho Admin. Rules §35.01.02.027(08) ; Idaho State Tax Commission, Cloud</p>

	<p>music, digital books, digital videos, or digital games is conditioned upon continued payment from the purchaser, it is not a permanent right of use; Other than digital music, digital books, or digital videos, information stored in an electronic medium is tangible personal property only if it is transferred to the user on storage media that is retained by the user; digital subscriptions (agreement with a seller that grants a user the right to obtain or access digital products in a fixed quantity or for a fixed period of time.) are not taxable; Tax does not apply to computer software delivered electronically, remotely accessed computer software, or computer software delivered by the load and leave method where the vendor or its agent loads the software at the user's location but does not transfer any tangible personal property containing the software to the user; Remotely accessed computer software is not TPP and charges to use or access such software are not subject to tax. "Remotely accessed computer software" means computer software that a user accesses over the Internet, over private or public networks, or through wireless media, where the user has only the right to use or access the software by means of a license, lease, subscription, service or other agreement;</p>	<p>Computing and Related Software Sales and Use Tax Issues, 10/22/2012</p>
<p>Illinois</p>	<p>Information or data that is downloaded electronically (downloaded books, musical recordings, newspapers or magazines) is not a transfer of TPP subject to occupation and use tax; downloads of canned software are subject to tax; Canned software is TPP regardless of the form in which it is transferred or transmitted, including tape, disc, card, electronic means or other media; the sale at retail, or transfer, of canned software intended for general or repeated use is taxable, including the transfer by a retailer of software which is subject to manufacturer licenses restricting the use or reproduction of the software; No tax applies to software adapted to a buyer's specific individualized requirements, custom-made and modified software designed for a buyer's particular or limited use, or software used to operate exempt machinery and equipment used to manufacture or assemble tangible personal property for wholesale or retail sale or lease; license of software is not a taxable retail sale if: (1) evidenced by a written agreement signed by the licensor and the customer; (2) it restricts the customer's duplication and use of the software; (3) it bars the customer from licensing, sublicensing, or</p>	<p>Ill. Admin. Code 86 §130.2105(a)(3); ILCS Chapter 35 §120/2-25 ; ILCS Chapter 35 §115/3-25 ; ILCS Chapter 35 §105/3-25 ; ILCS Chapter 35 §110/3-25 ; Ill. Admin. Code 86 §130.1935(a) ; Ill. Admin. Code 86 §130.1935; Illinois Dept. of Rev. General Information Letter No. ST 17-0006-GIL, 03/02/2017; Illinois Dept. of Rev. General Information Letter No. ST 10-0062-GIL, 08/04/2010.]</p>

	<p>transferring the software to a third party (except a related party) without the permission and continued control of the licensor; (4) the licensor has a policy of providing another copy at minimal or no charge if the customer loses or damages the software or of permitting the licensee to make and keep an archival copy; and (5) the customer must destroy or return all copies of the software to the vendor at the end of the license period; Modification of an existing prewritten program to meet the customer's needs is custom software if there are real and substantial changes to the operational coding of canned or prewritten software to meet the buyer's specific individualized requirements for its limited or particular use but not if the modified software is held for general or repeated sale or lease; The selection of prewritten or canned programs or program modules assembled by the vendor into a software package is not custom software unless real and substantial changes are made to the programs or creation of program interfacing logic. If the prewritten program or module was previously marketed, the new program qualifies as a custom program if the price of the prewritten program was 50% or less of the new program's price. When the prewritten program was not previously marketed, the new program qualifies as a custom program if the charge made to the customer for custom programming services was more than 50% of the contract price to the consumer; Computer software provided through a cloud computing delivery system is not subject to tax. While the Department of Revenue has determined cloud computing services to be nontaxable transfers, Illinois has not adopted any specific regulations that address cloud computing</p>	
<p>Indiana</p>	<p>Electronic transfers of specified digital products (digital audio works, digital audiovisual works, or digital books) to an end user with grant of permanent use not conditioned upon continued payment is taxable; sale of a digital code used to obtain a product transferred electronically taxed in the same manner as the product transferred electronically; prewritten software including delivery electronically or by load and leave are taxable; custom software not taxable regardless of delivery method; only the "writing" and "rewriting" of source code represents the creation of "custom" software; SaaS/cloud computing: a transaction in which an end user purchases, rents, leases, or licenses the</p>	<p>Ind. Code §6-2.5-4-16.4; Indiana Information Bulletin No. ST8, 07/01/2018; Ind. Code §6-2.5-4-16.7(b); Ind. Code §6-2.5-4-1 ; Ind. Admin. Code 45 §2.2-4-1</p>

	right to remotely access prewritten computer software over the Internet, over private or public networks, or through wireless media, is not a transaction in which prewritten computer software is delivered electronically, and not subject to sales tax; Data processing services are not specifically designated as taxable	
Iowa	Prewritten computer software taxable whether delivered or accessed in physical form (as tangible personal property) or electronically (as a specified digital product) taxable; tax applies to “specified digital products (non-tangible products transferred electronically, such as through a website or an app, and are usually purchased over and downloaded from or accessed through the internet)(examples include: digital audio-visual works, such as movies; digital audio works, such as music and audio books; digital visual works, such as images and clip art; digital books, or “e-books,” and other digital written works, such as academic articles, magazines, and catalogues; and other forms of digital products, such as greeting cards, images, video or electronic games or entertainment, news or information products, and computer software applications (software sold in electronic format)); webinars generally taxable as specified digital products; sale of storage services for tangible or electronic files, documents, and other records taxable: information services where access to a database or any form of subscription to information is provided through any tangible or electronic medium are taxable (examples include: database files, research databases, genealogical information, mailing lists, subscription files, credit reports, surveys, real estate listings, bond rating reports, abstracts of title, bad check lists, broadcasting rating services, wire services, price lists or guides, scouting reports); software as a service (sale, storage, use, or other consumption of vendor-hosted computer software [computer software accessed through the internet or vendor-hosted server whether access is permanent or temporary, whether any downloading occurs, or whether the software is hosted by the retailer of the software or by a third party], such as software accessible on the cloud) taxable; Video game services (providing access to video games, support and account services, in-game currency exchanges, payment processing services, and any other service related to the hosting or provision of video games) taxable; exemption for sales to commercial	Iowa Code §423.1 et seq.; Tax Reform Guidance: Taxation of Specified Digital Products, Software and Services, Iowa Dept. of Rev., 09/03/2019; Iowa Admin. Code §701--18.34; Iowa Admin. Code §701--26.18

	enterprises for specified digital products, pre-written software, data storage, SasS; exemption for specified digital products sold to non-end users; no tax on custom software	
Kansas	In compliance with the SSUTA, Kansas does not tax electronically delivered computer downloads of digitized products, including movies, music, photographs, newspapers, and other similar products other than canned software since they are not TPP; prewritten software taxable even if delivered electronically or by load and leave; custom software exempt no matter how transferred; data processing not taxed; does not tax a database provider's charges that allow an Internet user to electronically access information on the provider's remote database to answer queries or extract information; Hosted software is a nontaxable service. Hosted software, which includes the related terms software as a service ("SaaS"), cloud computing service model, and application service provider ("ASP"), obligates a service subscriber to pay a fee to gain Internet access to, and the use of, the service provider's software and servers and to the data the subscriber inputs and stores on those servers. Hosted software is not taxable in Kansas because it is not an enumerated taxable service, it is not considered a lease since the customer does not have control over or have possessory rights to the software, and it is not considered prewritten computer software because it is not delivered to subscribers or installed on their computers unless the software is billed to the subscriber as a separate line item charge;	Kan. Stat. Ann. §79-3665 ; Kan. Stat. Ann. §79-3602(pp) ; Kansas Information Guide No. EDU-71R, 07/23/2010; Kan. Stat. Ann. §79-3603(s) ; Kansas Revenue Ruling No. 19-2004-03, 07/01/2007; Kansas Information Guide No. EDU-71R, 07/23/2010; Kansas Private Letter Ruling No. P-1999-83, 03/30/1999; Kansas Revenue Department Public Notice No. 08-03, 06/26/2008; Kansas Opinion Letter No. O-2012-001, 02/06/2012.
Kentucky	Taxable digital property includes the following transferred electronically: digital audio works (such as ringtones, recorded or live songs, music, books or other sound recordings), digital books, finished artwork, digital photographs, periodicals, newspapers, magazines, video greeting cards; audio greeting cards, video games, electronic games or any digital code related to this property; Digital property does not include digital audio-visual works (movies, motion pictures, musical videos, news and entertainment programs and live events, but do not include video greeting cards, video games and electronic games) or satellite radio programming; Custom or non-prewritten computer software consisting of a program tailored solely to the needs of an individual customer is not subject to sales taxes since such transaction does not	Ky. Rev. Stat. Ann. §139.010(10) ; Ky. Rev. Stat. Ann. §139.200(1) ; Ky. Rev. Stat. Ann. §139.010(6) ; Ky. Rev. Stat. Ann. §139.010(10)(b); Ky. Rev. Stat. Ann. §139.010(29); Kentucky Competes: A Modern Tax Code that Creates Jobs, 02/04/2014

	<p>involve a sale of TPP; Sale, leases and rentals of canned or prewritten computer software are subject to sales tax even if delivered electronically or via load and leave; data processing not taxable; Kentucky has not issued specific guidance on the taxation of cloud computing or SaaS. Kentucky applies the sales tax to all prewritten software sold as a tangible product or downloaded. Although no guidance on cloud computing has been issued, cloud computing is likely not taxable, since the state has proposed legislation to clarify that accessing software on the digital cloud is taxable. The most recent proposal seeks to clarify that the sales tax is applicable to all prewritten software regardless of method of delivery and would clarify that cloud computing is also taxable; UPDATE: The Kentucky Department of Revenue's latest issue of Sales Tax Facts states that Software as a Service (SaaS) that is not delivered into Kentucky is not subject to Kentucky sales and use tax. If the software is accessed exclusively via the "cloud" or on-line exclusively via the selling entity's server, the software access is not subject to Kentucky sales and use tax. Software accessed via servers and in no way downloaded to the customer is not a retail sale of tangible personal property subject to Kentucky sales and use tax. (Kentucky Sales Tax Facts No. 01/08/2021, 01/08/2021.)</p>	
Louisiana		
Maine	<p>Digital products delivered or downloaded to a cellular telephone electronically, including music, video, text or ringtones, are subject to the sales tax; Any computer software that is not a custom computer software program is TPP and taxable, including downloaded prewritten software; software licenses are generally treated as leases and are taxable to the lessor based upon the purchase price; no guidance expressly addressing the taxability of cloud computing transactions; data processing not taxable.</p>	<p>Maine Instructional Bulletin No. 56, 01/24/2013; Maine Instructional Bulletin No. 3, 07/28/2008; Me. Rev. Stat. Ann. 36 §1752(17) ; Maine Revenue Services, 05/11/2005; Maine Instructional Bulletin No. 20, 09/16/2019; Me. Rev. Stat. Ann. 36 §1752(17-B) ; Me. Rev. Stat. Ann. 36 §2552 .</p>
Maryland	<p>Digital products (e.g., downloaded or electronically transferred or transmitted digital audio, music, or books) not taxable because not TPP or specified taxable services; Computer and data processing services are exempt from sales and use tax; unless otherwise provided, canned software is taxable; If software is delivered electronically without a hard copy not taxable;</p>	<p>Md. Code Ann. Tax-Gen. §11-102(a) ; Md. Code Ann. Tax-Gen. §11-103 ; Md. Code Ann. Tax-Gen. §11-101(k)(1)(i) ;Md. Code Ann. Tax-Gen. §11-101(m) ; Electronic delivery of</p>

		canned computer software, 05/13/2005; Md. Code Ann. Tax-Gen. §11-219(b); Md. Code Ann. Tax-Gen. §11-102(a) ; Md. Code Ann. Tax-Gen. §11-103(b)
Massachusetts	Digital products other than software generally not taxable; transfer of prewritten software, electronic or otherwise taxable; Sales of custom software are generally exempt as professional service transactions regardless of the method of delivery; Charges for processing data furnished by customers are generally exempt regardless of the method of delivery of the processed information to the customer; Data processing services are non-taxable services; Charges for access by telephone or other means to databases stored in computer hardware not on the premises of the customer are generally exempt; Generally charges for the access or use of software on a remote server are taxable unless there is no charge for the use of the software and the object of the transaction is acquiring a good or service other than the use of the software; Sales of cloud computing that involve the customer's use of its own software or open-source operating system software, that is software available free on the Internet, are not taxable when sold to customers in Mass because they do not involve taxable sales of prewritten software; Sales of remote storage service are also not taxable when sold to customers in Massachusetts because the object of the transactions is a nontaxable service; However, sales of cloud computing that use software licensed by the cloud computing provider are taxable when sold to customers in Massachusetts, whether or not there is a separately stated charge for the software or whether or not there is a sublicense of the software to the customer because the charges of cloud computing are for services that are part of the sales price of the taxable prewritten software and the object of the transaction is acquiring the right to use the software. The fact that the software is not downloaded onto the customer's computer is not determinative; Generally, sales of software functionality without an investment in hardware through application service providers, products marketed as Software-as-a-Service, and cloud computing to customers in Massachusetts are taxable sales of prewritten software, except where the customer is acquiring only nontaxable computing	Mass. Gen. L. Chapter 64H §1 ; Mass. Gen. L. Chapter 64H §2 ; Mass. Gen. L. Chapter 64I §2 ; Massachusetts Technical Information Release No. 05-8, 07/14/2005; Mass. Gen. L. Chapter 64H §1 ; Mass. Gen. L. Chapter 64H §2 ; Mass. Gen. L. Chapter 64I §2 ; Massachusetts Technical Information Release No. 05-8, 07/14/2005.

	resources or storage capacity (as opposed to acquiring the use of software), or where the nontaxable computing resources or storage capacity services are bundled with the provision of prewritten operating system software that is incidental to the acquisition of those services, such that the object of the transaction remains the acquisition of nontaxable services; <i>Citrix Systems Inc. v Commissioner of Revenue</i> , 139 N.E.3d 293 (2020), the Massachusetts Supreme Court held taxpayer's charging of fees for subscriptions to use online software products was "transfer of tangible personal property," to which sales tax could be applied, even though taxpayer retained control over software and hardware that it used to facilitate remote access; payment of fees allowed customer to gain access to remote network of taxpayer's servers running proprietary software, which was necessary for taxpayer's products to function.	
Michigan	Digital audio visual works, digital audio works, or digital books are not included in the definition of "tangible personal property" and so are exempt from sales-use tax; Canned software, whether modified or not, taxable regardless of the method of delivery; computer program transferred or downloaded electronically by a network, intranet, the Internet, or by any other electronic method is taxable if the software being transferred meets the definition of canned software; If only a portion of a software program is electronically delivered to a customer, the "incidental to service" test will be applied to determine whether the transaction constitutes the rendition of a nontaxable service rather than the sale of TPP; However, if a software program is electronically downloaded in its entirety, it will be taxable; subscriptions to products transferred electronically same as non-subscription purchase of such product; data processing services are exempt;	Mich. Comp. Laws Ann. §205.51a(r) ; Mich. Comp. Laws Ann. §205.92(k) ; Michigan State Taxability Matrix, revised 07/30/2019, effective 07/31/2019; Michigan Revenue Administrative Bulletin No. 1999-5, 09/28/1999; Notice to Taxpayers Regarding Auto-Owners Insurance Company v. Department of Treasury, 01/06/2016; <i>Catalina Marketing Sales Corp. v. Department of Treasury</i> , 470 Mich 13, 678 NW2d 619 (2004).
Minnesota	Furnishing of specified digital products (digital audio visual works, digital audio works, digital books) or other digital products (greeting cards; and online video or electronic games when transferred electronically) or granting the right for use on a temporary or permanent basis regardless if purchaser is required to make continued payments	Minn. Stat. §297A.61, Subd. 10 ; Minn. Stat. §297A.61, Subd. 38 ; Minn. Stat. §297A.61, Subd. 3(l) ; Minnesota Sales Tax Fact Sheet No. 177, 09/01/2018; Minn. Stat. §297A.61, Subd.

	<p>is taxable; but digital products sold to users other than end users exempt; When a digital code has been purchased that relates to specified digital products or other digital products, the subsequent receipt of or access to the related products is not a retail sale; When taxable digital products are bundled with nontaxable items and sold for one lump-sum price, the entire sale is taxable unless the price of the taxable item or service is de minimis. For bundled transactions, “de minimis” means the seller’s purchase price or sales price for the taxable products is 10% or less of their total purchase or sales price for the bundled products; Minnesota does not treat subscriptions to products “transferred electronically” differently than a non-subscription purchase of such product; transfer of prewritten computer software, whether delivered electronically, by load and leave, or otherwise, is a taxable; custom computer software is not taxable; Charges to access data from a database at a remote location are not taxable;</p>	<p>4(o); Minn. Stat. §297A.61, Subd. 3(f) ; Minnesota Sales Tax Fact Sheet No. 134, 09/01/2018;</p>
<p>Mississippi</p>	<p>Telecommunications tax on sale, rental, or lease of specified digital products (electronically transferred digital audio-visual works, digital audio works and digital books such as software, music, games, reading materials or ring tones when sale is to an end user and regardless whether the right to use is permanent or something less and regardless if conditioned or not conditioned upon continued payment; Sales of software or software services transmitted by the Internet to a destination outside Mississippi where the first use of such software or software services by the purchaser occurs outside Mississippi, are exempt from the sales tax; Computer program license fees (one-time or annual) and/or maintenance contract income are taxable regardless of how billed; Professional services directly related to the technical design and programming of computer software are taxable but when these services are incidental to the sale of computer hardware, software, or programs, the entire charge is taxable; computer software programs are treated as tangible personal property for use tax purposes; every person using, storing, or consuming computer software programs in Mississippi regardless of how possession was acquired, must pay tax;</p>	<p>Miss. Code Ann. §27-65-19(1)(d)(i)(1) through Miss. Code Ann. §27-65-19(1)(d)(i)(5) ; Miss. Administrative Code §35.IV.6.02(205) ; Miss. Code Ann. §27-65-26(1) ; Miss. Code Ann. §27-65-26(3)(a) ; Miss. Code Ann. §27-65-26(1)(a) — Miss. Code Ann. §27-65-26(1)(c) , Miss. Administrative Code §35.IV.4.10(100); Miss. Code Ann. §27-65-101(1)(ii) ; Miss. Administrative Code §35.IV.5.06; Miss. Administrative Code §35.IV.5.06 ; Miss. Code Ann. §27-67-3(i) ; Miss. Code Ann. §27-67-5 ; Miss. Administrative Code §35.IV.5.06</p>

	however, software maintained on a server located outside Mississippi and accessible for use only via the Internet is not taxable	
Missouri	<p>Telecommunications services taxable (transmission of information by wire, radio, optical cable, coaxial cable, electronic impulses, or other similar means of knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols); does not include access to the Internet, access to interactive computer services or electronic publishing services if such services are separately stated on the customer's bill or on records of the seller maintained in the ordinary course of business; Missouri has not issued any ruling on taxability of digital downloads; digital downloads such as ring tones, games, and songs, are issues being considered in a rulemaking procedure; however, in an earlier ruling, the Department has ruled that the sale of software distributed over the Internet which users may download is not subject to sales and use tax; <i>Filenet Corporation v. Director of Revenue, Mo. Adm. Hearing Comm. Dkt. No. 07-0146 RS, 08/20/2010</i>, a software and hardware company that was duly authorized to do business in Missouri was not subject to Missouri use tax on its sale of computer software to a customer through load and leave delivery method because there was no sale of tangible personal property. There was no use of any physical medium to transmit the computer programs to the end user, thus there was no sale of tangible personal property; tax applies to the sale of canned software delivered in a tangible medium to a purchaser; examples of canned software delivered in a tangible medium include coding sheets, cards, magnetic tape, CD-ROM, or other tangible electronic distribution media on which or into which canned software has been coded, punched, or otherwise recorded; sale of customized software where the true object or essence of the transaction is the provision of technical professional service, is sale of a nontaxable service; sale of software as a service is not subject to tax; SasS includes a model for enabling ubiquitous, convenient, and on-demand network access to a shared pool of configurable computing resources, such as, networks, servers, storage, applications and services, that can be rapidly provisioned and released with minimal management effort or service provider interaction. The term includes platform as a service model, infrastructure as a service model, and similar ;</p>	<p>Mo. Rev. Stat. §144.010(1)(16) ; Mo. Rev. Stat. §144.020(1)(4); Missouri Private Letter Ruling No. LR 3923, 07/19/2007 ; Missouri Private Letter Ruling No. LR 1452, 04/03/2003; Mo. Code Regs. 12 §10-109.050(1) ; Mo. Code Regs. 12 §10-109.050(2)(A) ; Mo. Code Regs. 12 §10-109.050(3)(A); Mo. Code Regs. 12 §10-109.050(2)(C) ; Mo. Code Regs. 12 §10-109.050(3)(I)</p>

	<p>service models. The term excludes any service model that gives the purchaser the right to use specifically identified tangible personal property; Department has ruled that the sale of the computer software over the Internet is not subject to Missouri sales and use tax; The taxpayer is selling computer software that is normally subject to sales or use tax when purchased. However, the software is transferred to the customer via the Internet, and there is no transfer of tangible personal property. Also, based on the facts presented, there is no taxable service being provided. Missouri sales and use tax is therefore not applicable to the sale and transfer of the software through the Internet. Missouri Private Letter Ruling No. LR 1452, 04/03/2003.</p>	
Montana	No state sales tax	
Nebraska	<p>Retail sales of digital audio works (music), digital audio-visual works (movies, music videos, TV shows, etc.), and digital books are taxable when delivered electronically if the products are taxable when delivered on tangible storage media and purchaser receives a permanent right of use, a right of use which terminates on some condition, or a right of use conditioned upon continued payments; retail sales of digital codes that provide the purchaser with a right to obtain digital audio works, audio-visual works, or books taxable; sale of computer software delivered electronically, i.e., via the Internet or online, to Nebraska customers is subject to the sales and use tax regardless of the manner in which it is conveyed; Charges by an application service provider (ASP) for services that allow customers remote access to software applications via the Internet or other online connection, sometimes referred to as cloud computing, are not taxable when the ASP retains title to the software and does not grant a license with ownership rights to the customer regardless of whether the software is located on a server in Nebraska or on a server outside Nebraska; but ASP is responsible for paying tax on its purchase of software if the it resides on a computer in Nebraska.</p>	<p>Neb. Rev. Stat. §77-2701.16(9) ; Nebraska Revenue Ruling No. 01-11-3, 08/04/2011; Neb. Admin. R. & Regs. §1-088; Nebraska Information Guide No. 6-511-2011, 07/27/2011</p>
Nevada	<p>Digital products are considered intangible for sales and use tax purposes; Unless delivered electronically or by load and leave, prewritten computer software programs are taxable TPP; The sale, lease, rental, or licensing for use of custom computer software programs is exempt; canned software that is downloaded is not taxable unless taxable tangible</p>	<p>Nev. Admin. Code §372.880(1) ; Nev. Admin. Code §372.015 ; Correspondence, NV Dept. of Taxation, 05-12-2005; Nev. Rev. Stat. §372.105 ; Nev.</p>

	property is exchanged; Nevada has not issued specific guidance on the taxation of cloud computing or SaaS; However, since the Nevada sales and use tax only applies to TPP and does not apply to charges for services if TPP is an inconsequential element of the sale, software as a service would not be subject to tax	Rev. Stat. §372.085 ; Nevada Taxability Matrix version 2020.0, Nevada Department of Taxation, effective 08/01/2020; Nev. Rev. Stat. §372.105 ; Nev. Rev. Stat. §372.185 ; Nev. Rev. Stat. §374.110 ; Nev. Rev. Stat. §374.190 ; Nev. Admin. Code §372.390 ; Nev. Admin. Code §372.400
New Hampshire	No state sales tax	
New Jersey	Exempts specified digital products that are accessed but not delivered electronically to the consumer; does not tax digital property that is simply streamed or uploaded temporarily to a consumer to allow access to digital content; does tax specified digital products (digital audio-visual works, digital audio works, and digital books) that are “transferred electronically” (obtained by the purchaser by means other than tangible storage media); digital code which provides a purchaser with a right to obtain the product treated in the same manner as a specified digital product; Specified digital products do not include video programming services, including video-on-demand television services; and broadcasting services, including content to provide those services; Specified digital products also taxable when delivered in tangible form (i.e., CD, DVD, audio/video tape); sales of prewritten computer software, including prewritten software transmitted electronically, taxable unless a statutory exemption applies; sale of a license to use prewritten computer software is a sale of prewritten computer software; sale of prewritten software modified to meet the purchaser's special need or combined with other prewritten software as treated as the sale of prewritten software; If vendor separately states a fee for the customization service, the charge for the service, if reasonable, is exempt from tax; Receipts from sales of prewritten software delivered electronically and used directly and exclusively in the conduct of the purchaser's business, trade or occupation are exempt from the sales and use tax; However, exemption does not apply to receipts from sales of prewritten software delivered by a load and	N.J. Rev. Stat. §54:32B-3(a) ; N.J. Rev. Stat. §54:32B-2(vv) ; Amendments to the Sales and Use Tax Act, effective May 1, 2011, 05/05/11; N.J. Rev. Stat. §54:32B-2(zz) ; N.J. Admin. Code §18:24-25.1 ; N.J. Admin. Code §18:24-25.2 ; N.J. Admin. Code §18:24-25.4(b); N.J. Rev. Stat. §54:32B-8.56 ; N.J. Admin. Code §18:24-25.5(b); N.J. Admin. Code §18:24-25.1 ; N.J. Rev. Stat. §54:32B-3(a) ; N.J. Rev. Stat. §54:32B-2(g) ; New Jersey Division of Taxation Technical Bulletin No. TB-51R, 07/05/2011 ; New Jersey Division of Taxation Technical Bulletin No. TB-72, 07/03/2013

	<p>leave method; purchase of custom software (created, written, and designed for the exclusive use of a specific customer) is treated as a nontaxable professional service transaction, rather than as a purchase of the software itself; Even though the taxpayer may receive the custom software in tangible form, the transfer of a disc, CD, or other media is considered incidental to the sale of software and design services, which remain nontaxable; Cloud computing is offered in three product categories: Software as a Service (“SaaS”), Platform as a Service (“PaaS”), and Infrastructure as a Service (“IaaS”). SaaS providers offer the use of software on a per transaction basis, through a service contract, or by subscription. SaaS providers obtain licenses to use the software they offer their customers, perform regular maintenance on that software (generally in the form of updates, etc.), and maintain server space to house the software. Examples of SaaS are Salesforce, Google Apps, and DeskAway. Because SaaS only provides the customer with access to the software and the software is not “delivered electronically,” it is not the sale of tangible personal property. If the use of the software does not relate to the provision of information, SaaS is not subject to sales tax. Platform as a Service (PaaS) customers create software using tools and/or libraries provided by the PaaS providers. Some common examples include Windows XP or Mac OS X. Because PaaS only provides the customer with access to the software and the software is not “delivered electronically,” it is not the sale of tangible personal property. Where use of the software is the true object of the sale, PaaS is not subject to sales tax. IaaS providers purchase and maintain hardware, software, and any other equipment and services necessary to support and manage the content and dataflow of its customers. When an agreement for IaaS does not provide for the transfer of tangible personal property or provide for taxable services to any property owned by the customer, sales tax is not applicable.</p>	
New Mexico	<p>Downloaded information taxable; Receipts from the sale of packaged software (computer programming that is embodied in electronic, electromagnetic, or optical materials for transfer from one person to another, either with or without explanatory materials, instructions, or other materials, and is intended to be sold or licensed to multiple buyers or users without modification) are generally considered to be receipts</p>	<p>New Mexico Taxation and Revenue Dept. Ruling No. 401-97-6, 11/20/1997; N.M. Admin. Code §3.2.1.15(J)(1); N.M. Admin.</p>

	<p>from the sale of tangible personal property; Receipts from the sale or licensing of custom software (software developed specifically at the order of the customer for a specific purpose, and includes the modification of existing computer programming) are generally considered to be receipts from the performance of a service; New Mexico generally taxes all receipts derived from performing services in New Mexico unless the services are specifically exempt or deductible; gross receipts tax, includes licenses and so the sale of a license to use prepackaged software is a sale of property; a transaction constitutes a sale of a license to use software if no extraordinary services are performed to furnish the program; the buyer pays a fixed amount for the license to use the program and the use is generally limited to a specific computer; and, the buyer may not resell to any other person a license to use the program or transfer the software package to any other person; New Mexico Taxation and Revenue Dept. Ruling No. 401-13-2, 06/26/2013: a taxpayer, which provides a cloud-based hosting alternative to an absolute internal telecommunication infrastructure where customers pay a monthly fee to utilize the taxpayer's cloud hardware and software applications is engaging in business in New Mexico and is subject to the imposition of the gross receipts tax because the taxpayer is actually providing a license to use hardware and software despite the taxpayer categorizing its transactions with New Mexico customers as a service. When the customer is located in New Mexico, with a computer located in New Mexico, the location of the license is in New Mexico. When the location of the license is in New Mexico, the seller has gross receipts from licensing property employed in New Mexico and the taxpayer's receipts from the sale of a license to customers in New Mexico to access the taxpayer's hardware and software are gross receipts subject to the gross receipts tax; New Mexico Taxation and Revenue Dept. Ruling No. 401-12-2, 09/28/2012: Where a company sells web-based services in New Mexico that, for a fee, allow subscribers to have remote computer access, participate in meetings online and attend online webinars, hold online training sessions, and provide technical support to their customers, the receipts from such services are subject to the gross receipts tax. The subscriber fee is charged for the right to access the company's website and use the web services provided through the website. The</p>	<p>Code §3.2.1.18(EE)(1) ; N.M. Admin. Code §3.2.1.7(F)(3) ; N.M. Admin. Code §3.2.1.27(B)</p>
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	<p>right to access and use is a license, which is a form of property. For gross receipts tax purposes, the location of the license is the place where it will normally be exercised. When the customer is located in New Mexico, with a computer located in New Mexico, the location of the license is in New Mexico. When the location of the license is in New Mexico, the seller has gross receipts from licensing property employed in New Mexico. New Mexico Taxation and Revenue Dept. Ruling No. 401-13-3, 07/19/2013: taxpayer's receipts from providing storage capacity for data on a server located outside New Mexico were not receipts defined under NMSA 1978 §7-9-3.5 and were not subject to gross receipts tax in New Mexico. The taxpayer's receipts from data transfer fees were for uploading data, downloading data, or moving data as part of the customer's use of the taxpayer's web-based services. Because the services for which the data transfer fees are charged were not performed in New Mexico, they were exempt from gross receipts tax as receipts from services performed outside New Mexico.</p>	
<p>New York</p>	<p>Digitized products (i.e., songs, videos, electronic games, e-books, etc.) that are subject to sales and use tax when sold in tangible form are not subject to New York sales and use tax when transmitted electronically. See, e.g., New York Advisory Opinion No. TSB-A-12(26)S, 10/15/2012 (sales of downloadable patterns and eProjects not sold in conjunction with tangible personal property not subject to tax); New York Technical Service Bureau Memorandum No. TSB-M-11(5)S, 04/07/2011 (sales of electronic books (e-books) are not subject to sales tax because e-books are not tangible personal property); New York Advisory Opinion No. TSB-A-07(14)S, 05/17/2007 (digital music delivered electronically to customers for download on their computers or devices are sales of intangible property that are not subject to sales or use tax); <i>The Stock Market Photo Agency, Inc.</i>, New York Advisory Opinion No. TSB-A-99(48)S, 11/12/1999 (sales of photographic images transferred solely via the internet are not subject to the New York sales and use tax because the images are intangible personal property); method of delivery of computer software does not affect the taxability of the software. Thus, prewritten computer software downloaded from the internet or transmitted electronically over telephone lines is subject to New York sales and use tax. Custom software, on the other hand, is not subject to the tax; Cloud Computing</p>	<p>N.Y. Tax Law §1101(b)(6) ; N.Y. Tax Law §1101(b)(14) ; New York Technical Service Bureau Memorandum No. TSB-M-93(3)s, 03/01/1993</p>

	<p>service. In a recent advisory opinion, the New York Department of Taxation and Finance found that an Internet based Cloud Computing product that provides customers with the right to use its computing power to run an application was not taxable because providing a customer with computing power is not a taxable service. [New York Advisory Opinion No. TSB-A-15(2)S, 04/14/2015].</p>	
<p>North Carolina</p>	<p>Following digital property delivered or accessed electronically is taxable: digital audio work, digital audiovisual work, digital book; or electronically transferred magazine, newspaper, newsletter, report, or other publication, photograph or greeting card; tax applies regardless of whether the purchaser of the item has the right to use it permanently or to use it without making continued payments; digital code is taxed in the same manner as certain digital property for which the digital code relates; exceptions for qualifying education expenses and when transferred contemporaneously with non taxable service; taxable tangible personal property includes prewritten computer software; Custom computer software exempt; Prewritten computer software delivered electronically or via load and leave is taxable. Non-prewritten (custom) computer software delivered electronically or via load and leave is exempt; North Carolina does not currently impose sales and use tax on revenue from access to cloud based software accessed electronically via an Internet connection. See N.C. Private Letter Ruling No. SUPLR 2018-0005, 01/24/2018; subscription fees to access the taxpayer's cloud-based software-as-a-service (SaaS) platform are not subject to sales and use tax since the software is not transferred to the customers and the subscription fees do not provide the taxpayer's customers the right to download, copy, or modify the software, the taxpayer's subscription fees charged for access to the taxpayer's platform are not subject to sales and use tax (access provided via the internet through a username and password, and charges customers a subscription fee for the access based on the monthly activity of the platform users, software is located on servers hosted and owned by a third party and the servers are not located in North Carolina). (N.C. Private Letter Ruling No. SUPLR 2021-0007, 02/02/2021.); sale of a subscription to provide a right and license to access and use the taxpayer's industry profile reports through the taxpayer's web portal is subject to sales and use tax. The reports are</p>	<p>N.C. Gen. Stat. §105-164.4(a)(1) ; N.C. Gen. Stat. §105-164.3 ; N.C. Gen. Stat. §105-164.6(a) ; Important Notice: Certain Digital Property, N.C. Dept. of Rev., 10/18/2019; Important Notice: Sourcing For Certain Digital Property Subject to Sales and Use Tax, N.C. Dept. of Rev., 08/12/2013; N.C. Gen. Stat. §105-164.4(a)(1); N.C. Gen. Stat. §105-164.3(46) ; N.C. Gen. Stat. §105-164.3(29a) ; North Carolina Sales and Use Technical Bulletin No. 28-2, 03/01/2007; Important Notice; Computer Software, N.C. Dept. of Rev., 02/18/2010</p>

	<p>not customized to a specific customer or user and customers can add their own content to specific sections of a report if they purchase a license to access all of the reports. The subscription allows a customer to gain access to web-based reports that are delivered or accessed electronically. Since certain digital property includes reports transferred electronically, the subscription fees are subject to sales and use tax. (N.C. Private Letter Ruling No. SUPLR 2021-0019, 04/29/2021.)</p>	
North Dakota	<p>Digital products transferred electronically (i.e., not tangible storage media) exempt; sale of a pre-written computer software is taxable, even if delivered electronically or by load and leave; sale or lease of custom computer software not taxable regardless of the form transferred.</p>	<p>N.D. Cent. Code §57-39.2-02.1(1)(h) . [N.D. Cent. Code §57-39.2-04(54) ; North Dakota Taxability Matrix, revised 07/22/2020, effective 08/01/2020; N.D. Admin. Code §81-04.1-03-11(6)(b)</p>
Ohio	<p>Digital Products (books, music, and videos) delivered electronically taxable regardless if provided for permanent use or less than permanent use or whether continued payment is required; but digital audio work electronically transferred for delivery through use of a machine, such as a juke box, that accepts direct payments to operate, automatically plays a selected digital audio work for a single play upon receipt of a payment, and operates exclusively for the purpose of playing digital audio works in a commercial establishment not taxable; A person who sells automatic data processing, computer services or electronic information services is the consumer of the tangible personal property used in performing the service, when the true object of the transaction is the</p>	<p>Ohio Rev. Code Ann. §5739.01(B)(12); Ohio Rev. Code Ann. §5739.02(B)(54); Ohio Rev. Code Ann. §5739.01(D)(5) ; Ohio Rev. Code Ann. §5739.02(B)(42)(m); Ohio Tax Information Release No. ST 2003-06, 07/02/2003; Ohio Taxability Matrix, Ohio Dept. Tax'n., effective 07/31/2020</p>

	<p>receipt by the consumer of automatic data processing, computer services or electronic information services rather than the receipt of exempt personal or professional services to which automatic data processing, computer services or electronic information services are incidental or supplemental; But, sales in which the consumer's purpose is to use the tangible personal property to perform a service are exempt if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service; sale of canned software/prewritten computer software is taxable as a sale of TPP even if purchased by downloading; custom software exempt; except custom system software for business use is a taxable computer service under Ohio Rev. Code Ann. §5739.01(B)(3)(e) ; SasS: Cloud Collaboration Service providing cloud-based applications and related services that support customer's telecommunication equipment including its voice, video, messaging, presence, audio, web conferencing, and mobile capabilities) from an off-site location; i.e, services provided on a remote basis through the use of clusters located at a data center; the clusters deploy a variety of available taxpayer-owned, client software applications that are utilized by customer-owned phones and workstations located at customer sites, generally provide the customer's telecommunication equipment with certain necessary or enhanced functionalities; taxpayer charges monthly user license fee, calculated based on the number of users; because the software and hardware used to provide the offering is located outside of Ohio, it is not subject to Ohio use tax; However, offering is taxable as an automatic data processing service (providing access to computer equipment for the purpose of processing data), if used in business, and hosting services are taxable as part of the price of the automatic data processing service; offering is taxable in Ohio if the benefit of the service is received in Ohio, or if the customer is located in Ohio and accesses the service from their location in Ohio. [Ohio Tax Commissioner Opinion No. 14-0001, 02/04/2014.]</p>	
Oklahoma	<p>Digital products (music, video, ringtones, and books) delivered electronically not taxable; prewritten software taxable if physical or load and leave delivery, but not electronic delivery;; custom software not taxable regardless of delivery method; electronic data</p>	<p>Okla. Admin. Code 710:65-19-156; Okla. Stat. 68 §1354(A)(9) ; Okla. Stat. 68 §1352(20) ; Okla.</p>

	processing services (processing of another person's data, including key punching, keystroke verification, rearranging, sorting previously documented data, and providing access to computer equipment for the purpose of processing data) are exempt.	Stat. 68 §1357(32) ; Okla. Admin. Code 710:65-19-156(b); Okla. Admin. Code 710:65-19-52(g); Okla. Admin. Code 710:65-19-86(a);
Oregon	No State sales tax	
Pennsylvania	Following digital and/or electronic content taxable if streamed or accessed, and whether purchased singly, by subscription, or in any other manner: (1) video, (2) photographs, (3) books and any otherwise printed matter (e-books), (4) applications (commonly known as apps), (5) games, (6) music or any other audio (including satellite radio service), and (7) any other otherwise taxable tangible personal property that is delivered electronically or digitally, streamed or accessed; prewritten (canned) software, including licenses, updates, enhancements and upgrades, is subject to tax regardless of the method of delivery; financial institution exception; license to use canned computer software constitutes TPP subject to sales tax; sale or license of custom software not taxable; accessing taxable canned software on remote servers, also known as “cloud computing,” is subject to Pennsylvania sales and use tax when the user is located in Penn. because sale (including a license to use) canned computer software is subject to tax, even if delivered electronically as per Dechert case; if the billing address for canned software accessed remotely is in Pennsylvania, then the user is presumed to be located in Pennsylvania; however, the purchaser may rebut that presumption;	Pa. Stat. Ann. 72 §7201(m)(2) ; Pennsylvania Sales Tax Bulletin No. 16-001, 07/21/2016 ; Notice of Taxable and Exempt Property, Pa. Dept. of Rev., 06/15/2019; Pa. Stat. Ann. 72 §7201(m)(2) ; Pennsylvania Policy Statement No. 60.19, 01/07/2000 (c)(2)(i) (a) (Pa. Code 61 §60.19(c)(2)(i)) ; Notice of Taxable and Exempt Property, Pa. Bull. Doc. No. 12-2503, Pa. Bull. Vol. 42, No. 53, 12/22/2012; Pennsylvania Sales and Use Tax Ruling No. SUT-08-005, 02/11/2008; <i>Dechert LLP v. Commw., Pa. S. Ct., Dkt. No. 12 MAP 2008, 07/20/2010 ,998 A2d 575(2010)</i> ; Pennsylvania Policy Statement No. 60.19, 01/07/2000(c)(2)(ii) (Pa. Code 61 §60.19(c)(2)(ii)) ; Pennsylvania Sales and Use Tax Ruling No. SUT-12-001, 05/31/2012
Rhode Island	Specified digital products (digital audio visual works, digital audio works, digital books) transferred electronically taxable regardless of if permanent or less than permanent access and regardless of whether the purchaser is required to make continued payments for such right; sale includes any license, lease, or rental of prewritten or vendor-hosted computer software and	R.I. Gen. Laws §44-18-7(16); <u>R.I. Gen. Laws §44-18-7.1(w)</u> ; L. 2020, H7532 (c. 17) , effective 06/24/2020; L. 2020, S2650 (c. 12) , effective 06/24/2020; <u>R.I. Reg.</u>

	<p>specified digital products; sale of prewritten computer software (“canned”) delivered in tangible form is taxable including any services (training, maintenance consultation, etc.) pertaining to the sale; however, installation labor separately stated is not subject to tax; sale, storage, use or other consumption of prewritten computer software delivered electronically or by load and leave is taxable; sale of custom software is not subject to tax even if transferred electronically or by load and leave; If canned software is licensed for a term period (for example, 3 years), the licensing is considered a lease and the maintenance charges, whether mandatory or optional, are subject to tax; . Data processing services are not subject to sales tax; the sale, storage, use, or other consumption of vendor-hosted prewritten computer software (also known as software as a service (SaaS) is subject to sales and use tax; vendor-hosted prewritten computer software” means prewritten computer software that is accessed through the Internet and/or a vendor-hosted server regardless of whether the access is permanent or temporary and regardless of whether any downloading occurs (prior law was: when an agreement exists for a vendor to host software from their equipment and may be accessed by a customer, the transaction is not considered prewritten computer software delivered electronically and therefore is not subject to tax, provided there is no downloading of prewritten computer software); cloud services that use software that is licensed and sold by the cloud service provider are taxable. In addition, charges for the software are also subject to tax; however, cloud services which involve use of the customer's own software or software available free on the Internet are not subject to tax</p>	<p><u>280-RICR-20-70-46 ; Streamlined Sales Tax Governing Board Taxability Matrix, R.I. Div. of Taxation, revised September 27, 2019, effective 08/01/2019; R.I. Gen. Laws §44-18-7(14) ; Streamlined Sales Tax Governing Board Taxability Matrix, R.I. Div. of Taxation, revised September 27, 2019, effective 08/01/2019 ; R.I. Reg. 280-RICR-20-70-46 ; Sales Tax Return Filers, R.I. Div. of Tax., Notice #2011-04, 08/01/2011 ; Rhode Island Tax Changes Coming Soon, R.I. Division of Taxation Advisory, 09/09/2011; R.I. Reg. 280-RICR-20-70-46; Correspondence, RI Division of Taxation, 12/2/2002; R.I. Gen. Laws §44-18-7 ; R.I. Gen. Laws §44-18-12 ; Rhode Island Ruling Request No. 2011-01, 03/04/2011; [R.I. Gen. Laws §44-18-7(15) ; Rhode Island Advisory No. 2018-38, 09/13/2018 ; Streamlined Sales Tax Governing Board Taxability Matrix, R.I. Div. of Taxation, revised September 27, 2019, effective 08/01/2019; R.I. Gen. Laws §44-18-7.1(g)(vii); R.I. Gen. Laws §44-18-12 ; Correspondence, R.I. Div. of Taxation, 03/23/2016.</u></p>
<p>South Carolina</p>	<p>Does not explicitly tax the sale of digital products, but is under consideration at recommendation of task</p>	<p>S.C. Code Ann. §12-36-910(C) ; South Carolina</p>

	<p>force; Charges for data processing or the use of data processing are exempt from sales and use tax; Tax applies to the total charges for coding or otherwise reproducing prewritten programs including charges for the tapes or other items furnished by sellers or reproducers; except for charges by an Application Service Provider (ASP) that allows a customer to access the ASP website and use the software on that website, software sold and delivered by electronic means does not meet the definition of tangible personal property set forth in S.C. Code Ann. §12-36-60 or fall within the provisions taxing communications services under S.C. Code Ann. §12-36-910 or S.C. Code Ann. §12-36-1310 and is therefore not subject to the sales and use tax; transaction is not subject to sales tax if: 1) software delivered by a seller through a laptop brought to the buyer's location, and 2) downloaded via the internet, wireless network, or other wireless connection, and 3) then the connection is terminated and laptop removed from the premises when done, 4) provided no part of the software including back-up tapes, diskettes or flashdrives is delivered by tangible means. In addition, if a software programmer brings a laptop and, instead of downloading software, makes changes directly to the source code of the software, the transaction is not subject to tax. The programmer has not sold or delivered software by tangible means, but instead has provided a service by making changes directly to the source code of the customer's software; Charges for computer software provided through an application service provider (APS) are subject to sales and use tax; Custom programs (those prepared to the special order of a customer AND those developed through modification of existing prewritten programs to meet a customer's specific needs) are taxable</p>	<p>Private Letter Ruling No. 12-2, 06/11/2012; South Carolina Revenue Ruling No. 05-13, 08/21/2005; South Carolina Revenue Ruling No. 12-1, 03/20/2012; South Carolina Revenue Ruling No. 05-13, 08/21/2005 ; South Carolina Revenue Ruling No. 96-3, 01/24/1996; <u>South Carolina Revenue Ruling No. 12-1, 03/20/2012</u>; South Carolina Revenue Ruling No. 05-13, 08/21/2005; South Carolina Revenue Ruling No. 05-13, 08/21/2005; S.C. Code Regs. §117-330</p>
<p>South Dakota</p>	<p>Gross receipts tax imposed sales, leases or rentals of prewritten software or digitized products (digital audio visual works; digital audio works; and digital books) transferred electronically if: 1) the sale is to an end user; (2) the sale is to a person who is not an end user, unless otherwise exempted; (3) the seller grants the right of permanent or less than permanent use of the products transferred electronically; or (4) the sale is conditioned or not conditioned upon continued payment; sale of a digital code that may be utilized to obtain a product transferred electronically will be taxed in the same manner as the product transferred electronically; sale of a prewritten computer program is</p>	<p>S.D. Codified Laws §10-45-2.4; S.D. Codified Laws §10-45-1(14); South Dakota Tax Facts No. 02/01/2021(Internet), 02/01/2021.</p>

	<p>the sale of TPP subject to the sales tax; live chat or conferencing fees, internet e-mail services, and web hosting are internet related services not subject to tax; charges by a registrar for their domain name registration services (including original registration, change to a registration, and renewal of a registration) are subject to sales tax based on the customer's location.</p>	
Tennessee	<p>Retail sale, lease, licensing, or use of electronically transferred digital audio-visual works, digital audio works, digital books and video game digital products) transferred to or accessed by subscribers or consumers in Tennessee is subject to sales tax; regardless: (1) if sold with rights of permanent use or less than permanent use; (2) conditioned upon continued payment; or (3) via subscriptions to, access to, or the purchase of a digital code for, receiving or accessing; following excluded from specified digital products subject to tax: (1) subscriptions to satellite radio services; and (2) subscriptions to data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by electronic transmission to a purchaser, in which the purchaser's primary purpose for the underlying transaction is the processed data or information; sale or use of computer software, including prewritten and custom computer software, is taxable, regardless of whether the software is delivered electronically, through tangible storage media, or by some other means; exemption applies to the use of computer software to the extent that the software has been fabricated by a person or the person's direct employee for the person's consumption; use of computer software includes the access and use of software that remains in the possession of the dealer who provides the software or in the possession of a third party on behalf of such dealer. If the customer accesses the software from a location in Tennessee as indicated by the residential street address or the primary business address of the customer, such access is deemed equivalent to the sale or licensing of the software and electronic delivery of the software for use in Tennessee; If the sales price or purchase price of the software relates to users located both inside and outside Tennessee as indicated by a residential street or business address, the dealer or customer may allocate to Tennessee, a percentage of the sales price or purchase price that equals the percentage of users</p>	<p>Tenn. Code Ann. §67-6-233(a) ; Tenn. Code Ann. §67-6-233(g) ; Tenn. Code Ann. §67-6-233(b); Tenn. Code Ann. §67-6-233(d) ; Tenn. Code Ann. §67-6-231 ; Tenn. Code Ann. §67-6-102(78)(K) ; Tenn. Code Ann. §67-6-102(84)(K) ; Tenn. Code Ann. §67-6-231(a)(2) ;Tennessee Important Notice No. 15-14, 06/01/2015; Tennessee Letter Ruling No. 16-01, 01/26/2016; Tennessee Letter Ruling No. 16-02, 03/08/2016; Tennessee Letter Ruling No. 15-09, 12/17/2015; Tennessee Letter Ruling No. 16-07, 09/08/2016; Tennessee Important Notice No. 03/01/1998, 03/01/1998; Tennessee Letter Ruling No. 14-10, 10/13/2014; Tennessee Letter Ruling No. 15-07, 12/17/2015; Tennessee Revenue Ruling No. 17-17, 10/31/2017; Tennessee Letter Ruling No. 17-18, 11/06/2017</p>

	<p>in Tennessee. Any dealer that purchases computer software only for the purpose of reselling access and use of such software is entitled to purchase such software exempt from the sales tax imposed subject to the same rules that apply generally to any sale of tangible personal property for resale; The true object of the transaction test is used to determine whether a customer is paying for access to software or is paying for a service; Nothing in <u>Tenn. Code Ann. §67-6-231(a)(2)</u> should be deemed to impose a tax on any services that are not currently subject to sales and use tax, such as, but not limited to, information or data processing services, including the capability of the customer to analyze such information or data provided by the dealer; payment or transaction processing services; payroll processing services; billing and collection services; Internet access; the storage of data, digital codes, or computer software; or the service of converting, managing, and distributing digital products; If computer software is purchased by a business and installed on a server outside Tennessee and accessed by that business inside Tennessee, there is no tax on the software because the sale did not occur within Tennessee. Even though the taxpayer's employees access or use the software remotely from locations within Tennessee, the sale of the software has already occurred outside of Tennessee. The access and use of the software is not under the remotely accessed software provisions of <u>Tenn. Code Ann. §67-6-231(a)(2)</u> because the software is not in the possession of the seller; A purchaser of software, which remains in the seller's possession (remotely accessed software) and is accessed and used both from locations in and outside of Tennessee, may provide its seller with a fully completed Remotely Accessed Software Direct Pay Permit to make the purchase without paying tax to the seller. The purchaser must provide a separate permit for each remotely accessed software product purchased or an attachment to the permit that lists the software products it applies to. The purchaser must then directly report and pay the sales or use tax to the Department on the portion of the price that corresponds to the percentage of users located in Tennessee; exempts from sales and use tax any otherwise taxable services that are rendered by a corporation for another corporation that is affiliated with the corporation rendering the service, and exempts from the sales and use tax the use of</p>	
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	<p>computer software that is developed and fabricated by an affiliated company and the repair of the computer software, provided that the repair is rendered by an affiliated company; consulting services and charges for services to create, design, develop, fabricate, program, alter or modify computer software are subject to the sales and use tax when the charges are part of the contract to purchase the software; software is bundled with other services and the true object of the transaction is computer software, the sale is taxable as computer software; Sales of information services, such as databases for current news or electronic bulletin boards, are not taxable as sales of telecommunication services; that remote access to computer software is subject to sales tax and charges for self-study online courses are considered to be charges for remote access to computer software. Webinars, i.e., classes with live instructors, are not subject to sales tax. If there is a single charge for access to both webinars and self-study online classes, the entire charge is subject to sales tax; If the charges are for self-study online training classes that do not have an interactive element, i.e., the online test, then the classes and subscriptions for classes are subject to sales tax as digital products under <u>Tenn. Code Ann. §67-6-233</u>.</p>	
<p>Texas</p>	<p>Digital Products such as photographs and music, are TPP; TPP means personal property that can be seen, weighed, measured, felt, or touched or that is perceptible to the senses in any other manner, and includes a computer program and a telephone prepaid calling card; The sale, lease, or license of a computer program is a sale of tangible personal property; Tax is due when the computer program, or a license to use the computer program, is transferred for consideration in Texas, or stored, used, or consumed in Texas, in electronic form or on physical media; Sales of software over the Internet are subject to sales tax if the software is downloaded to a location in Texas; No tax is due on sales of software downloaded to a location outside of Texas; Music, video games, and ring tones delivered digitally, electronically, physically, or by any other medium are tangible personal property under Texas sales and use tax law. However, the sale of a prepaid card other than a telephone prepaid calling card, which allows the</p>	<p>Texas Policy Letter Ruling No. 200005359L, 05/30/2000; Texas Policy Letter Ruling No. 200101966L, 01/03/2001; Tex. Tax Code Ann. §151.009; Texas Policy Letter Ruling No. 200105241L, 05/18/2001; Texas Policy Letter Ruling No. 200605591L, 05/17/2006; Tex. Tax Code Ann. §151.0101(a)(12); Texas Private Letter Ruling No. 202003061L, 03/03/2020 (released August 2020)</p>

	<p>purchaser to access and download music, ring tones, or video games is not subject to tax since the card represents an intangible, the “right” to a future purchase. Instead, tax is calculated when the card is redeemed; Data processing services are taxable; Software-as-a-Service (SaaS) is a taxable data processing service under Texas law</p>	
*Utah	<p>Specified digital products (digital audio visual work, digital audio work, digital book) transferred electronically (excluding telecommunications services, ancillary services, and computer software) are taxable if the product is subject to tax if it was transferred in a manner other than electronically; subscriptions to products “transferred electronically” treated same as non-subscription purchase of such product; exemption for digital products transferred electronically during disaster period; Sales, rentals or leases of custom computer software are considered personal services and are exempt, regardless of the form in which the program is transferred; License fees for remotely accessed prewritten software are taxable if the purchased software is used in Utah; if the remotely accessed software is used in more than one location and at the time of the transaction, the buyer provides the seller with a reasonable and consistent means for allocating the transactions between the locations, the seller must source the transactions to those locations; sales of Cloud-based applications and related services (“Service Offering”) to Utah customers are subject to state sales tax under <u>Utah Code Ann. §59-12-103(1)(a)</u>, which imposes tax on retail sales of tangible personal property in the state; Computer generated output (microfiche, microfilm, paper, discs, tapes, molds, or other tangible personal property generated by a computer) is taxable if the primary object of the sale is the sale of the output and not the services rendered in producing the output; Amounts paid or charged to access a database are exempt from tax if the primary purpose for accessing the database is to view or retrieve information from the database</p>	<p>Utah Code Ann. §59-12-103(1)(m) ; Utah Taxability Matrix, Utah State Tax Comm'n, effective 08/01/2020; Utah Code Ann. §59-12-104(81); Utah Admin. R. §R865-19S-92(2) ; Utah Informational Publication No. 64, 05/01/2012; Utah Informational Publication No. 64, 05/01/2012; [Utah Private Letter Ruling No. 13-003, 12/04/2013; Utah Admin. R. §R865-19S-92(1); Utah Code Ann. §59-12-104(78)(a)</p>
Vermont	<p>Specified digital products (digital audio-visual works, digital audio works, digital books, or ringtones) transferred electronically to an end user taxable; digital download of other products such as photographs or non-prewritten software is not taxable; charges for the right to access remotely prewritten software</p>	<p>Vt. Stat. Ann. 32 §9771(8) ; Vt. Stat. Ann. 32 §9773(4) ; Code of Vt. Rules §1.9771(8) ; Vermont Technical Bulletin No. TB-54,</p>

	<p>exclusively on a cloud platform are not considered as charges for tangible personal property and, therefore, are not taxable; Charges for access to prewritten software over the cloud are seen as a computer service or an intangible transaction and thus not subject to sales tax in the state unless specifically enumerated. Prewritten software in other forms such as a download, as well as specified digital products remain taxable; sale of canned or prewritten software is taxable TPP; software accessed solely on a cloud platform not TPP but instead is a computer service or intangible transaction for purposes of the sales use tax, which generally are not subject to the sales tax unless specifically stated otherwise; sale of prewritten software through tangible media, such as disks or other storage devices, and through downloading or through load and leave contracts are subject to tax; Sales of custom or “non-prewritten” software is considered a service transaction and is tax exempt; Charges made when tangible property is transferred as part of a personal services transaction or a transfer of intangible property rights are exempt, as long as the focus of the transaction is the provision of services or the transfer of intangible property rights and not the transfer of tangible personal property; no separate charge is made for the transfer of tangible personal property; and the value of the tangible personal property transferred, including the value of services added to the tangible personal property transferred, is less than 10% of the total charge for the transaction. When the focus of the transaction is the transfer of tangible personal property, all receipts from the sale are taxable, including receipts from separately stated charges for services to produce the property, unless the receipts are otherwise exempt; if a vendor has made the same or similar product available on a disk or for download, it remains software subject to sales tax if offered for remote access with essentially the same functionality; For products that are only available by remote access, further factors must be considered to determine if they are prewritten software subject to sales tax. Until regulations are issued, vendors and customers should consider the following factors that may cause tax to apply:</p> <ul style="list-style-type: none"> • A contract or written agreement provides for, in exchange for consideration, a transfer by 	<p>04/11/2011; Code of Vt. Rules §1.9771(8)(2); Cloud Software Update (FS-1084), 08/01/2015; Vermont Taxability Matrix, revised 07/31/2020, effective 08/03/2020; Vt. Stat. Ann. 32 §9701(7) ; Code of Vt. Rules §1.9701(7)-2 ; , Cloud Software Update (FS-1084), 08/01/2015 ; Vermont State Taxability Matrix, revised 07/31/2019, effective 08/01/2019; Vermont Formal Ruling No. 93-08, 07/02/1993; Vt. Stat. Ann. 32 §9741(35) ; The Sales and Use Tax Treatment of Cloud Computing, 06/07/2013</p>
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	<p>license, sale, subscription, lease, or other means, of prewritten software.</p> <ul style="list-style-type: none"> • A customer can access a seller's prewritten software on its own or the seller's or a third party server, and can enter its own information, manipulate that information, and/or run reports. Mere search queries in a seller's database are not considered "entering information." • The seller provides the customer with the use of software that functions with little or no personal intervention by the seller or seller's employees other than "help desk" assistance for customers having difficulty using the software. • The seller refers to itself as an Application Service Provider (ASP) or its product as Software as a Service (SaaS) or in a similar manner, although the seller's characterization of a product is not ultimately determinative. • The seller provides access to software, including operating system software or application software, even if no software is transferred to the customer, i.e., "cloud computing". • The software provides an organizational tool or function that is used by customer, e.g., screen sharing. • Prewritten software is bundled with a nontaxable service and sold for a single price, but only where the software constitutes the predominant value of the sale. • The seller provides an application that is downloaded to any device, including but not limited to a Smart-phone, PC or Tablet, and there is a charge for the application. • Factors where tax may not apply— • The seller's employees are providing data processing, creating and running reports for the customer and providing them in any form (assuming that they are unique to the customer). The seller is providing additional, different or restructured information to the customer (e.g., credit card or check verification services, ATM terminal driving services, database access). • The seller's employees are providing data processing, creating and running reports for 	
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	<p>customer and providing them in any form (assuming that they are unique to the customer).</p> <ul style="list-style-type: none"> • The customer does not interface with the prewritten software either on its own or on seller's or third-party servers or enter information that will be further manipulated by the software. Search queries by the customer in the seller's database are not considered entering the customer's own information or interfacing with the software. • A personal or professional service is provided (e.g., legal, accounting, data management, data storage). • The transaction is for an optional maintenance contract that does not include software updates or upgrades. • The seller is providing custom software. • The seller is providing data storage and back-up. • The customer is running its own software, which was not obtained from the seller, on seller's hardware in a "cloud computing" environment. • The seller is providing customized reports to the customer that are personal and individual to that customer and not shared with or sold to others. •Substantial personal or professional services are performed by seller's employees and are bundled with the use of software and sold for a single price, and such services constitute the predominant value of the sale. 	
Virginia	<p>Sales and use tax does not apply to services not involving an exchange of tangible personal property which provide access to or use of the Internet and any other related electronic communication service, including software, data, content and other information services delivered electronically via the Internet; Music downloaded from the Internet constitutes a nontaxable service; digital products delivered electronically, such as software, downloaded music, ring tones, and reading materials are not subject to the communications sales and use tax; A provider is required to collect the fee on taxable charges for digital media (audio-visual work received through the in-room television for a separate charge, including, but not limited to, any motion picture, television or audio</p>	<p>Va. Code Ann. §58.1-609.5(1); Va. Code Ann. §58.1-609.5(1) ; Virginia Public Document Ruling No. 08-43, 04/17/2008; Virginia Public Document Ruling No. 08-196, 12/19/2008 ; Va. Code Ann. §58.1-648(C) ; Virginia Communications Taxes Overview, Department of Taxation, 01/01/2007 ; Virginia Public Document Ruling No. 06-138,</p>

	<p>programming, or game, regardless of whether it is transmitted in an analog or digital format) unless the provider receives a properly executed exemption certificate from the guest that would exempt the guest from the retail sales and use tax on charges for the temporary lodging; Because the digital media fee is a fee on the purchase of a service, certificates of exemption providing an exemption from the retail sales and use tax on a purchase of tangible personal property does not relieve a customer from paying the digital media fee; sale of prewritten software programs is subject to sales tax, unless the sale is delivered electronically to customers; sale of prewritten software delivered electronically to customers does not constitute the sale of tangible personal property and is, therefore, generally not subject to sales and use taxation. This policy is conditioned on the fact that no disc, tape or other tangible medium is subsequently provided to the customer (by mail or other means) before or after the electronic download of the software; Custom programs are considered an exempt service; cloud computing services are nontaxable;</p>	<p>11/01/2006 ; Va. Code Ann. §58.1-603 ; Virginia Public Document Ruling No. 04-176, 10/06/2004; Virginia Public Document Ruling No. 05-44, 04/04/2005; Va. Code Ann. §58.1-609.5(7); Virginia Public Document Ruling No. 12-191, 11/29/2012; Virginia Public Document Ruling No. 12-215, 12/21/2012</p>
<p>Washington</p>	<p>Sales of digital products, which consist of digital goods, digital codes, and digital automated services, are taxable retail sales, unless an exemption applies; Retail sales of digital products include any services provided exclusively in connection with the digital products, whether or not there is a separate charge for the services; Retail sales do not include the sale of or charge made for custom software. Consequently, sales tax does not apply to sales of custom software; use of custom software is also not subject to use tax; Sales of remote access custom software on the seller's or a third-party's servers are not subject to sales tax; sales of prewritten computer software to consumers are subject to sales tax, whether or not ownership or title passes to the buyer, and regardless of any express or implied restrictions upon the buyer; tax is imposed regardless of the method of delivery (whether through tangible storage media or electronic means); prewritten computer software, regardless of the method of delivery, is generally subject to use tax upon use in Washington if Washington sales tax was not previously paid; However, use of prewritten computer software is not taxable, if it is provided free of charge, or if it is provided for temporary use in viewing information, or both; Charges made to consumers for the right to access and use prewritten computer</p>	<p>Wash. Rev. Code §82.04.050(8) ; Wash. Rev. Code §82.08.020(1)(b) ; Wash. Rev. Code §82.12.020(1)(e) ; Wash. Admin. Code §458-20-15503(201) ; Washington State Department of Revenue, Digital Products Bills (ESHB 2075 & SHB 2620), 05/03/2010; Wash. Rev. Code §82.04.050(8)(b) ; Wash. Rev. Code §82.04.050(6)(a)(i); Wash. Admin. Code §458-20-15502(2)(d); Wash. Admin. Code §458-20-15502(10)(a); Wash. Rev. Code §82.04.050(6)(a) ; Wash. Admin. Code §458-20-15502(3)(b) ; Wash. Rev.</p>

	software, where possession of the software is maintained by the seller or a third party, is also subject to sales and use tax, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or other basis;	Code §82.12.020(1)(b) ; Wash. Admin. Code §458-20-15502(3)(c) ; Wash. Rev. Code §82.04.050(6)(b) ; Wash. Admin. Code §458-20-15502(10)(b) ; Washington State Department of Revenue, Digital Products Bills (ESHB 2075 & SHB 2620), 05/03/2010;
West Virginia	No sales or use tax on products transferred electronically, including specified digital products (digital audio visual works; digital audio works; and digital books; sale of computer software (canned or custom) taxable, unless used to process data for others; sale or lease of a computer software taxable even if the program is transferred by remote telecommunications from the seller's place of business, to or through the purchaser's computer, and the purchaser does not obtain possession of TPP in the transaction; custom software and prewritten computer software included in the definition of TPP as of January 1, 2004; following sales of software are exempt: (1) software to be directly incorporated by a manufacturer in a manufactured product; (2) software (including custom designed) directly used in communication; (3) educational software required to be used in public schools in-state or in nonprofit or educational institutions in-state; West Virginia law provides consumer sales and service tax applies to the furnishing of all services, unless specifically exempt; no statutory exemption for cloud computing or SaaS; Sales of electronic data processing services and related software to others exempt from sales and use tax; GD	West Virginia Taxability Matrix, revised 07/30/2020, effective 08/01/2020; W. Va. Code §11-15-9h(a)(1) ; W. Va. Code §11-15-9h(a)(2) ; W. Va. Code §11-15-9h(a)(4) ; Code of State Rules §110-15-9.3.11.1 ; W. Va. Code §11-15-3(g) ; W. Va. Code §11-15B-2(b)(60) ; W. Va. Code §11-15-8 ; W. Va. Code §11-15A-2 ; Code of State Rules §110-15-33.1 ; W. Va. Code §11-15-9(a)(21) ; W. Va. Code §11-15-9h(a)(3) ; Code of State Rules §110-15-9.3.11 ; Code of State Rules §110-15-76.1 ;
Wisconsin	Sales, leases, licenses and rentals of specified digital goods (digital audio works, digital audiovisual works, and digital books) and additional digital goods (greeting cards, finished artwork (excluding web site or home page designs), periodicals, video games and electronic games, newspapers and other news or information products when transferred electronically) are taxable regardless whether the transactions involve the right to use the goods on a permanent or less than permanent basis, or whether the buyers are required to make continued payments; sale or other use of a digital code	Wis. Stat. §77.52(1)(d); Wis. Stat. §77.51(3p) ; Wis. Stat. §77.51(3pa) ; Wis. Stat. §77.51(3pb) ; Wisconsin Dept. Rev. Tax Publication No. 240, 05/01/2016; Digital Goods Common Questions, Wis. Dept. Rev., 02/19/2020; Wis. Stat. §77.51(1a)(a) ; Wis.

	<p>giving access to more additional digital goods is considered the same as the sale or other use of the additional digital goods themselves; charges to electronically access or obtain construction plans and construction project information is subject to sales and use taxes, when the sale is sourced to a location in Wisconsin; specified digital goods and additional digital goods are exempt from sales and use tax if they would be exempt from, or not subject to, tax if sold or used in tangible form; retail sale, leasing, renting out, or licensing the use of computer programs, except custom programs (including their maintenance or enhancement) whether transferred in a machine readable form or in any other manner are taxable; Selling mailing lists, including listings in the form of mailing labels, produced by a computer (charge for addressing material to be mailed with names and addresses furnished by a customer, or maintained by a service bureau for the customer is exempt; manner in which computer programs and software is transferred is irrelevant, downloads of non-custom software are taxable; custom software is exempt; processing a client's data not taxable; providing time-sharing services not taxable; hosting web sites (storing of data on a computer) without selling any tangible personal property or any digital good not taxable; designing web sites and home pages not taxable; Application service fees, which permit persons at different locations to access the same software through remote access by telephone lines or other means, are not taxable when (1) the persons or the person's employees who have access to the software are not located on the premises where the equipment/software is located and do not operate the equipment or control its operation, and (2) software that is downloaded or physically transferred to the customer or the customer's computers is incidental to the data processing services; Software as a Service (<u>SaaS</u>) - Service provider hosts software application over the Internet: Charges for accessing prewritten computer software located on the vendor's server, if the customer does not have access to or control over the vendor's server, are not taxable. Note that charges for prewritten computer software that is downloaded to the customer's equipment (or equipment that the customer has access to and control over) in Wisconsin are taxable. In addition, charges for prewritten computer software that is downloaded to the customer's equipment (or equipment the customer</p>	<p>Stat. §77.51(3pc) ; Wis. Stat. §77.51(3rm) ; Wisconsin Dept. Rev. Tax Publication No. 240, 05/01/2016;Wis. Stat. §77.54(50) ; Wisconsin Taxability Matrix, Wis. Dept. Rev., effective 08/01/2020 ; Wis. Admin. Code Tax 11.71(2)(b) ; Wis. Admin. Code Tax 11.71(2)(e) ; Wis. Stat. §77.51(20); Wis. Admin. Code Tax 11.71(2)(b) ; Wis. Admin. Code Tax 11.71(3)(a); Wis. Admin. Code Tax 11.71(3)(d) ; Wisconsin Private Letter Ruling No. W1025002, 03/24/2010 ; Sales and Use Tax Treatment—Computer Hardware, Software, Services, Wis. Dept. Rev., 02/20/2020;</p>
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	<p>has access to and control over) outside of Wisconsin, with the customer's subsequent use of the prewritten software occurring in Wisconsin, are also taxable; Infrastructure as a Service (<u>IaaS</u>) – Service provider owns, maintains, operates and houses equipment (that is, hardware, servers, network components) used to support a customer's operations. Customer uses the Internet to access the equipment: Charges for storage on someone else's server that the customer does not have control over or physical access to are not taxable. Note that charges for the use of equipment (i.e., servers and other hardware) that the customer has control over and physical access to are taxable; Platform as a Service (<u>PaaS</u>) - Platform as a service contains elements of both IaaS and SaaS: The tax treatment depends on the factors mentioned above;</p>	
<p>Wyoming</p>	<p>retail sale of specified digital products (electronically transferred digital audio-visual works, digital audio works, and digital books) subject to tax, if the purchaser has permanent use; vendor who purchases specified digital products for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, re-licensing, distribution, redistribution or exhibition in whole or in part to another person is a wholesaler not subject to tax; pay-per-view movies are not taxable since the purchaser does not receive permanent use of the movie; storage, use or consumption of specified digital products in Wyoming where the specified digital products were purchased from a vendor who does not maintain a place of business in the state is subject to use tax; sale of digital code is taxed as the sale of a specified digital product; sale of custom software, delivered electronically or otherwise, not taxable nor is the creation of such software; prewritten computer software is TPP and taxable even if delivered electronically; downloading software from the Internet, telephone lines, or any other form of electronic transmission is considered to be the same as software purchased off the shelf and is taxable; providing a platform where customers can access hosted software via an internet connection, such as the most common cloud computing service models of Software-as-a-Service (SaaS), Platforms- a-Service (PaaS), and Infrastructure-as-a-Service (IaaS), are not taxable provided the customer does not receive any tangible personal property or enumerated service embedded within the service; Fees charged to access web hosted</p>	<p>Wyo. Stat. §39-15-103(a)(i)(P) ; Wyo. Stat. §39-16-103(a)(i) ; Wyo. Rules Dept. Rev. Chapter 2 §13(ff) ; Wyoming Department of Revenue Taxing Issues No. 2, 06/01/2010; Wyo. Rules Dept. Rev. Chapter 2 §13(ff); Wyo. Rules Dept. Rev. Chapter 2 §13(d)(ii)(A) ; Wyoming Sales and Use Tax Bulletins No. 07/01/2014(Computer Sales and Services), 07/01/2014; Wyo. Stat. §39-15-101(a)(ix); Wyo. Stat. §39-15-103(a)(i)(A) ; Wyo. Rules Dept. Rev. Chapter 2 §13(d)(i) ; Dept. Rev. Memorandum: Software Sales Via Internet, 05/11/2005.; Wyoming Sales and Use Tax Bulletins No. 07/01/2014(Computer Sales and Services), 07/01/2014; Wyo. Stat. §39-15-101(a)(vii) ;</p>

	<p>sites are not subject to sales tax. A sale has not transpired since the consumer never takes possession or control of tangible personal property; separately stated training services, which are conducted in person by a trainer/instructor at a client's place of business or interactive instruction via the internet, are not subject to sales tax; Online data storage fees are not subject to sales tax provided the host provider does not perform any data manipulation and does not have the ability to access individual computers in Wyoming for the purpose of alteration</p>	<p>Wyo. Stat. §39-15-101(a)(ix) ;</p>
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