



SALES TAX ON DIGITAL GOODS & SERVICES UNIFORMITY PROJECT

REPORT TO THE UNIFORMITY COMMITTEE

NOVEMBER 15, 2022

PROJECT BACKGROUND AND STEPS TO DATE

- April 2021 UC Meeting – Washington state presentation to the Uniformity Committee.
- July 2021 UC Meeting – Standing Subcommittee recommended drafting a white paper and the Uniformity Committee asked MTC staff to begin to prepare a detailed outline of that whitepaper.
- November 2021 and April 2022 UC Meetings – MTC staff reported on interviews with stakeholders.
- August 2022 UC Meeting – Workgroup chair announced; workgroup members solicited.

PROJECT BACKGROUND AND STEPS TO DATE (CONTINUED)

- September 22, 2022: first work group meeting – overview and organization; public comments were received on the outline that were subsequently incorporated.
- October 28, 2022: second work group meeting – members request research by MTC staff on definitions to report back at the December 8 work group meeting.

REGULAR WORK GROUP PARTICIPANTS

- Gil Brewer – Washington, Chair
- Jordon Raye – Kansas
- Shannon Brandt – Texas
- Mark Chaiken – New Mexico
- Shelley Robinson – Utah
- Tim Jennrich – Washington
- Alison Jares – South Dakota
- Charles Dendy – North Dakota
- Michael Fatale – Massachusetts
- Mia Strong – Louisiana
- Ray Dobson – Kentucky
- Ray Langenberg – Texas
- Richard Dobson – Kentucky
- Tracey Mueller – Wisconsin
- John Haidamous – Michigan
- Dee Wald – North Dakota
- Josh Pens – Colorado
- Emily Cramer – West Virginia
- Stacey Greaud – Louisiana

PROJECT GOAL: WHITE PAPER

- Draft Outline:
<https://www.mtc.gov/Uniformity/Project-Teams/Sales-Tax-on-Digital-Products>.

WHITE PAPER DRAFT OUTLINE

I. General Purpose or Goal of the White Paper –

- A. Determine the best approach to making existing state sales taxes adaptable and responsive to changes in the digital economy as opposed to creating a new tax or looking at gross receipts taxes.
- B. Determine the approach that is most responsive to issues identified by stakeholders.
- C. Determine the approach that will lead to the greatest uniformity.
- D. Other [may want to note the common criteria used to evaluate taxes – economic equity, revenue re-liability, etc.]

DIGITAL PRODUCTS

What are digital products? (Good question.)

- Items that are based in or make significant use of digital technology
- Items whose physical form or result is variable
- Items that may or may not have a traditional good or service as a close analog
- Items that are often provided on a per-use or periodic-payment basis
- Items that may be sold with or embedded in other products

DIGITAL PRODUCTS

Examples:

- Software and apps (with user interface)
- Digital books, music, art, etc.
- Artificial intelligence based services
- Online and similar platforms
- Online or electronic streaming of information
- Operating and communications systems (example – home safety systems)

**WHITE PAPER
DRAFT OUTLINE**

V. Survey of the Main Approaches to Including Digital Products in the Tax Base –

- A. States with broad tax bases – generally
- B. States that have specifically enumerated certain digital products – survey
- C. States that have interpreted “tangible personal property” to include digital products – survey

INITIAL STAFF PLAN TO RESEARCH DEFINITION SOURCES AND OPTIONS

1. MTC auditors
2. Streamlined Agreement
3. Existing state laws and regulations – see, e.g., AZ research on the MTC project page
4. Digital Goods and Services Tax Fairness Act (116th Congress – S. 765 / H.R. 1725)
5. Academic definitions
6. Industry definitions outside the SALT world
7. Items being sold in the market
8. Federal “digital assets” definition
9. ITFA definitions for electronic commerce, etc.
10. Legislative reports – waiting on NJ
11. Other sources, such as COST’s article on digital items and business inputs and their upcoming scorecard, CSPs, other US and international laws

DISCUSSION AND GUIDANCE FOR STAFF

- Comments from the chair
- Comments from work group members
- Comments from stakeholders & the public
- What are we missing? What do we need to be thinking about in terms of definitions?

PROJECT PAGE

- Research & Articles
- Selected State Tax Agency Information - Tax Imposition Related to Digital Products Generally
- Written Comments Submitted
- Streamlined Sales Tax Information
- Economic and Statistical Information
- Related Federal Information

Home Library STREAMLINED SALES TAX GOVERNANCE INPUT Synonyms: 187 Synonyms SALES TAXATION OF ELECTRONIC strawman - Google Search

v/Uniformity/Project-Teams/Sales-Tax-on-Digital-Products

Tax on Digital Products

Sales Tax on Digital Products

Description of Project

At its July 28, 2021 meeting, the Uniformity Committee considered a recommendation from the Standing Subcommittee to begin drafting the outline of a white paper on state sales taxation of digital products. The committee agreed that MTC staff would begin the process and report out at the November, 2021 committee meeting. Those interested in the project can follow the process on this webpage and can also contact Helen Hecht, MTC Uniformity Counsel, at hhecht@mtc.gov.

BACKGROUND INFORMATION

Project Proposal and Recommendation

Presentation by the State of Washington Department of Revenue to the Uniformity Committee at its April 2021 meeting recommending that the committee consider a project to modernize state sales and use tax systems to include digital products.

- [Washington Presentation](#) (Slides)
- [Washington Presentation on Sales Taxes on Digital Products](#) (Video)

Recommendation by the Standing Subcommittee to the Uniformity Committee that the committee begin a project.

- [Final Recommendation - Project on Sales Taxation of Digital Products](#) - as Approved June 17, 2021

Resources

Research and State Information

Research & Articles

Article by Natalia Garrett and Grant Nülle, "[Digital Goods and Services: How States Define, Tax, and Exempt These Items](#)," Tax Analysts, Tax Notes State, May 18, 2020.

Slides of Natalia Garrett - [Digital Goods: How States Define, Tax and/or Exempt Louisiana Research - Digital Products \(2021\) - State Chart](#) and [State Breakdown](#)

National Tax Association Paper (Hecht - 2014) - [Sourcing of Digital Goods and Services for Sales Tax - The Evolution of a Federal Legislative Proposal](#)

Report to the MTC Uniformity Committee (Hamer - 2019) - [Sourcing Digital Goods and Services](#)

Avalara - [State-by-state guide to the taxability of digital products](#) - Gail Cole, Dec. 4, 2020

Presentation to the Arizona State Legislature - Ad Hoc Joint Committee on the Tax Treatment of Digital Goods and Services - [Tax Treatment of Digital Goods and Services: Overview and Cross-State Comparison](#) - 2017

Center on Budget Policy and Priorities (Mazerov - 2012) - [States Should Embrace 21st Century Economy by Extending Sales Taxes to Digital Goods and Services](#)

New York City Independent Budget Office - Fiscal Brief (2015) - [To Tax or Not To Tax the New Economy: Digital](#)

MTC DIGITAL PRODUCTS PROJECT STAFF

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