



Sales Taxation of Digital Products – Status Report

JULY 22, 2025

PROJECT REPORT

- **Project resulted from a presentation by Washington state and input from a number of stakeholder interviews.**
- **The focus of this project is on sales taxation of digital products and whether there is a simple, workable approach to broadly defining those products so that the tax base is more adaptable over time.**
- **The committee established the work group to draft a white paper on this subject, following a draft outline prepared based on stakeholder input.**

PROJECT REPORT

- **Since the last committee meeting the work group and its study groups have:**
 - **Finished reviewing possible bundling issues and submitted comments to Streamlined**
 - **Continued discussions of a proposal to define digital products broadly along with a business input exemption**
 - **Begun considering sourcing of digital products**

PROJECT WEB PAGE AND ONLINE OUTLINE

- Information on the project is captured on its web page – [here](#)
- That project page has a link to an online outline of the white paper

Sales Tax on Digital Products

Project Description

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 by drafting a detailed outline of the issues to be included in that white paper and conducting research and stakeholder interviews. At the August 2, 2022 meeting of the Uniformity Committee, the committee reviewed the proposed draft outline and agreed that a project work group should be formed to provide ongoing input and review of the white paper, as it is developed.

For information about this or any other MTC uniformity project, contact MTC Uniformity Counsel Helen Hecht at hhecht@mtc.gov.

[*Click Here* for Digital White Paper Outline and Research](#)

Upcoming Meeting Notice

(See also Information from Prior Meetings Below)

Agenda

**THE NEXT WORK GROUP MEETING IS THURSDAY, AUGUST 7, 2025
AT 11:00 AM EASTERN**

For information about this meeting, contact MTC Uniformity Counsel Helen Hecht at hhecht@mtc.gov.

AGENDA FOR WORK GROUP

(TBD)

Notes from the June 5, 2025 work group meeting ([PDF](#))

[Work Group Meeting Guidelines \(PDF\)](#)

Dial-in/Log-in Information

Log-In or Use App to Join ZoomGov Meeting

[https://www.zoomgov.com/j/1616418264?
pwd=SmlQdGtLaEwrSElWTEFrSE01SWQwQT09](https://www.zoomgov.com/j/1616418264?pwd=SmlQdGtLaEwrSElWTEFrSE01SWQwQT09)

Meeting ID: 161 641 8264

Passcode: 230515

Dial-In

+1 669 254 5252 US (San Jose)

Find your local number:

Digital White Paper Issue Outline

NOTE: Information in this digital outline is in draft form and additional information will be added over time. There are no final recommendations at this time.

ONLINE OUTLINE With sub-pages for particular topics

→ Purpose

→ Imposition (definitions)

→ Issues of sale

→ Exemptions and Exclusions

→ Mixed and Bundled Products

→ Sourcing

→ Alternative Taxes

→ Federal Law

→ Other related issues

→ Appendix

Organization of the Digital Outline

The digital outline includes general topic areas or categories of issues and information as summarized below. You can access current information and resources on these topics using the buttons on the left.

General Topic Areas:

NOTE: Because some issues are closely related to each other, information may be included in more than one topic section of the digital outline. Also, included on each topic page are links to a summary of the history of state sales taxes and to other critical information.

- **Purpose** – Includes information on the purpose of the white paper and essential considerations impacting taxation of digital products including critical federal laws, state legislative studies, and stakeholder general issues and concerns.
- **Imposition** – Includes information on how states approach taxation of digital products currently—using a broad, medium, or narrow approach, and information on definitions.
- **Issues of Sale** – Includes information on the different types of transactions by which digital products may be provided to customers (i.e., sale, lease, license, subscription or limited access, etc.)
- **Exemptions and Exclusions** – Includes policy and administration related issues on exemptions and exclusions that might be applied to digital products.
- **Mixed and Bundled Products** – Includes information on the Streamlined bundling rules and from stakeholder interviews on this subject as well as the results of a bundling exercise study group.
- **Sourcing** – Includes information from the Streamlined sourcing rules as well as information on other sourcing issues including multiple points of use.
- **Alternative Taxes** – Includes information on taxes other than sales and use taxes that may be imposed on digital products.
- **Federal Law** – Includes information on relevant federal constitutional and statutory law.
- **Other Related Issues** – Includes direct pay rules and general enforcement issues.
- **Appendix** – Contains links to various resources for all topic areas.

Background on the Project

At the April 28, 2021 MTC Uniformity Committee meeting, the Washington Department of Revenue gave a presentation on their state's experience with including digital products in their sales tax base as well as the alternatives they considered. They proposed that the Committee take up a project to help states develop a simpler and more adaptable approach.

– [Washington Presentation 2021](#) (PowerPoint Slides)

– [Washington Presentation on Sales Taxes on Digital Products](#) 2021 (Video)

TODAY'S SUBJECTS

- **Current state efforts in taxing digital products**
- **Update on the definitions study group work**
- **Presentation on sourcing and the rules used in the Mobile Telecom Sourcing Act and Digital Goods and Fairness Act legislation**
- **Questions and comments from the committee and the public**



CURRENT STATE EFFORTS

DIGITAL PRODUCTS PROJECT



Louisiana Streamlined Plus

- Includes as taxable “[d]igital audiovisual works, digital audio works, digital books, digital codes, digital applications and games, digital periodicals and discussion forums, and any other otherwise taxable tangible personal property transferred electronically[.]”
- Whether digitally delivered, streamed, or accessed and whether purchased singly, by subscription, or in any other manner.
- Act 10, [H.B. 8](#), Louisiana State Legislature, Third Extraordinary Session, 2024.

Maine Streaming

- Taxes “[d]igital audiovisual and digital audio services.”
- Defined as “electronic transfer of digital audiovisual works and digital audio works to an end user with the right of less than permanent use granted.”
 - Includes transfers conditioned upon continued payment and subscriptions.
- Chapter 388, [LD 210](#), 132 Maine Legislature, First Special Session, 2025.

Maryland

NAICS codes

- Includes as a taxable service a data or information technology service described under NAICS sector 518, 519, or 5915, and a system software or application software publishing service described under NAICS sector 5132.
- Excludes sales of cloud computing to qualified cybersecurity business. Defines cloud computing as a service that enables on-demand, self-service network access to a shared pool of configurable computer resources.
- Chapter 604, [H.B. 352](#), Maryland General Assembly, 2025.

Washington

Changes to Digital Automated Services, other

- Repeals several exclusions from digital automated services:
 - (1) services that primarily involve the application of human effort;
 - (2) live seminars, workshops, or courses where participants connect via the Internet;
 - (3) advertising services and data processing services.
- Includes as “sale at retail” sales of information technology training services, technical support, custom website development, advertising services, custom software, and customization of software.
- Chapter 422, [S.B. 5814](#), Washington State Legislature, 2025



DEFINITIONS STUDY GROUP

DIGITAL PRODUCTS PROJECT



Definition Study Group

Task

- **The Study Group:** 26 agency and non-agency participants plus alternates
- **The Task:** Evaluate methods of broadly defining a digital products tax base
 - Discussed criteria for evaluation
 - Identified some existing methods for evaluation: Washington, South Dakota, Ohio, Utah, and Maryland
 - One proposed new method for the taxation of “automated digital products”

**Definition
Study Group**

**Criteria for
Evaluation**

- Clarity and ease of application
- Revenue generation or stability
- Compatibility with other elements of the tax structure
- Pyramiding of taxes
- Other considerations

Definition Study Group

Small, Medium, and Large Categories

- Refined categories:
 - Large - unitary definition
 - Medium - expansive definitions
 - Small – specific definitions
- Large, medium, or small outcome depends upon exclusions
 - A large method could have a small outcome if there are many exclusions

**Definition
Study Group**

**Unitary
Definition
Method**

- Uses a single definition for inclusion in the tax base with one or more exclusions applied to the definition, and external exemptions such as the sale-for-resale exemption.
- Examples
 - Washington
 - Utah
 - Proposed tax on “automated digital products”

**Definition
Study Group**

**Unitary
Definition
Method**

Washington

- Digital automated service - "any service transferred electronically that uses one or more software applications."
- Digital goods - "sounds, images, data, facts, or information, or any combination thereof, transferred electronically, including, but not limited to, specified digital products and other products transferred electronically not included within the definition of specified digital products."
- Limited by over a dozen exclusions. Until recently, excluded services involving primarily human effort.

**Definition
Study Group**

**Unitary
Definition
Method**

Utah

- Sales and use tax on amounts paid or charged for a sale of: (i) a “product transferred electronically” and (ii) a repair or renovation of a product transferred electronically, including maintenance agreements.
- “Product transferred electronically” is limited to “a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.”
- The State Tax Commission has interpreted “product transferred electronically” to include such products only if the purchaser may download them.

Definition Study Group

Unitary Definition Method

Proposed tax on “automated digital products”

- Automated digital product – an item, including software or a service or a right to access or use the item regardless of duration, that is provided in a binary format and for which additional human intervention required to produce the same or a substantially similar item for additional customers is minimal.
- “Minimal human intervention” – a concept used by the OECD, the United Nations, and the European Union

Definition Study Group

Unitary Definition Method

Proposed tax on “automated digital products”

- Proposed rules
 - The definition only looks to the supplier of the product, without regard to any human intervention on the side of the user (e.g., where the user may input certain parameters into an automated system to obtain a customized result).
 - The definition focuses on the human effort to provide the product and therefore does not include human effort in creating or supporting the system by which the item is provided.
 - The threshold of minimal human intervention would not be crossed where the provision of the same or similar product to new users generally requires very limited human response to individual user requests.

Definition Study Group

Expansive Definition Method

Concept

- Uses several expansive, but not all-inclusive, definitions for inclusion in the tax base with one or more exclusions applied to the definitions, and external exemptions.
- Examples
 - Ohio
 - Maryland

**Definition
Study Group**

**Expansive
Definition
Method**

Ohio

- In addition to the inclusion of SST “specified digital products,” the tax base also includes transactions in which “[a]utomatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental.”

Definition Study Group

Expansive Definition Method

Ohio

- “‘Automatic data processing’ means processing of others’ data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data.”
- “‘Computer services’ means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.”
- “‘Electronic information services’ means providing access to computer equipment by means of telecommunications equipment for either examining or acquiring data stored in or accessible to the computer equipment or placing data into the computer to be retrieved by a designated recipient with access to the computer equipment.”
- Automatic data processing, computer services, and electronic information services do not include personal or professional services.

Definition Study Group

Specific Definition Method

Concept

- Uses multiple narrow definitions aimed at specific products, typically with exclusions, and external exemptions.
- Example – Wisconsin
 - Taxes SST “specified digital products”
 - Plus “additional digital goods” transferred electronically: greeting cards, finished artwork, periodicals, video or electronic games, and newspaper or other news or information products.

**Definition
Study Group**

**Observation
of the Chair**

- Generally speaking, because unitary and expansive definitions will be broader than specific definitions, they have the potential to raise more revenue and be more adaptable to new and innovative products than specific definitions.
- But, revenue from broad terms of inclusion could be significantly reduced by terms of exclusion that are applied to the definitions.

Definition Study Group

Observation of the Chair

- Generally speaking, unitary and expansive definitions have the potential to be less clear than specific definitions focused on particular products.
- But, multiple specific definitions for multiple products also require the articulation of more taxability boundaries than are required for a unitary definition or for a few expansive definitions.
- For example, the definition of “digital book” in the Streamlined Sales Tax Agreement still requires a detailed rule to explain what is and is not a “book.”
- Ultimately, clarity depends upon the articulation of precise and ascertainable terms of inclusion and exclusion rather than the type of approach.

Definition Study Group

B2B Exclusion

- Some suggested B2B exclusions:
 - The sale of a “[Insert digital products definition (DP)]” to a qualified business that is the exclusive user of the [DP], including sharing the use of the [DP] with other qualified business users, is not subject to the [insert state SUT definition]; provided, however, that this exclusion shall not apply to non-business use of a [DP] by a qualified business unless the non-business use is inconsequential.
 - A product is exempt from taxation as an automated digital product if the product will be used predominantly for a trade or business.

**Definition
Study Group**

Wrap-Up

- Wrap-Up – Next month?
- Written evaluations of selected existing methods from different viewpoints.
- Written evaluations of proposed tax on automated digital services” from different viewpoints.