



Sales Taxation of Digital Products – Status Report

REPORT TO THE UNIFORMITY COMMITTEE
NOVEMBER 18, 2025

OVERVIEW

- Project and work group were created to consider whether digital products could be included in the sales tax base without specifically defining each product (beyond what Streamlined has already done).
- This has benefits given that products change, evolve, and are replaced rapidly.
- We are working closely with Streamlined to share discussions and information and do not intend to supplant its efforts or issue conflicting guidance.
- The goal is to identify and capture information on issues for policy-makers considering expanding their sales tax base to include digital products.

PACE OF CHANGE IS SPEEDING UP

- **New AI products pop up every week – including those that are free online for uses generally.**
- **AI is potentially disrupting all types of services, including professional services.**
- **This is particularly true within businesses, including start-ups.**
- **AI is also being used to market products, including digital products, and help shoppers compare and try out products virtually.**

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.

THE WHITE PAPER

→ 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.

PROJECT REPORT

- Since the last committee meeting, the work group has:
 - Wrapped up discussions of a proposal to define digital products broadly along with a general business-input exemption.
 - The workgroup will evaluate the results of these discussions to develop any findings or recommendation to be included in the whitepaper.
- Considered issues in sourcing sales of digital products, including multiple points of use (MPU) sourcing.

PROPOSAL TO BROADLY DEFINE DIGITAL PRODUCTS

- **The focus of recent discussions has been mainly on the ability to draw a clear line between what is a digital product and what is a service, including services performed through employment of digital products.**
- **The proposal sets out this discussion in much more detail and is posted on the project page.**



SOURCING DIGITAL PRODUCTS

- Streamlined rules as well as other states rules are being summarized for the white paper.
- State experience using MPU rules – including in Washington and Massachusetts – has also been discussed.

MPU SOURCING TAKE-AWAYS

- Streamlined considered an approach to MPU sourcing but did not implement the related rules.
- Before adopting MPU rules, states should consider:
 - What purchasers will the rules apply to? (Generally business purchasers.)
 - What types of products will the rules will apply to?
 - When will the rules apply – that is, when is a product available for use in multiple states?
 - What method will be used to apportion the value between states?

MPU SOURCING CHALLENGES

- **Challenges states may face in implementing MPU rules :**
 - **Documentation that needs to be kept by seller and purchaser**
 - **Defining “user” for purposes of when the product is used in multiple states**
 - **Addressing complex and varied transactions which may be unique.**

MPU SOURCING CHALLENGES (CONT'D)

- Refunds are often the means by which purchasers apply MPU to their purchase transactions.
- Apportionment of bundled transactions may pose additional questions (see the work group's discussion of the bundling issue generally).
- How credits for taxes paid in other states may work with MPU rules.



NEXT UP - EXEMPTIONS



REPORT OF STUDY GROUP - PROPOSED DEFINITION -

“Related Exemption: A product is exempt from taxation as an automated digital product if the product will be used **predominantly for a trade or business.**”

“Existing exemptions and exemption procedures should be reviewed to determine applicability. **If a state has other exemptions that are limited to tangible personal property or taxable services, the state should consider expanding the exemptions to explicitly cover automated digital products.**”

EXCLUSIONS AND EXEMPTIONS – PROPOSED OUTLINE

I. Sales Tax Base & Related Terms

A. The ultimate sales tax base is typically determined as follows:

1. Definitions – which form the starting point for imposition of the tax by:

- a. Generally defining items (e.g. tangible personal property),
- b. Specifically defining certain items (e.g. certain digital products).

2. **Broad exclusions** – which narrow the general application of the tax by making:

- a. Limitations on or exceptions to the defined items to which tax applies—typically included in the definitions themselves (e.g. when sold at retail or unless sold for some purpose)
- b. General exclusions based on easily verifiable criteria (e.g. items sold by government).

EXCLUSIONS AND EXEMPTIONS – PROPOSED OUTLINE

3. **Exemptions** – which carve out from the tax base certain specific transactions based on various criteria which often have to be verified in some way, including:
 - a. Definitions of specific items,
 - b. Who the seller is (e.g. hospitals),
 - c. Who the buyer is (e.g. government),
 - d. Purpose of the item (e.g. prescription drugs),
 - e. Use of the item by the buyer (e.g. resale, manufacturing, agriculture, etc.),
 - f. Other criteria (e.g. sales tax holidays).

EXCLUSIONS AND EXEMPTIONS – PROPOSED OUTLINE

B. **Exclusions versus exemptions** – The way in which certain transactions or items are removed from the tax base—whether through narrow definitions or exclusions or through exemptions varies by state. Some states may exclude things that are exempted by other states and vice versa.

EXCLUSIONS AND EXEMPTIONS – PROPOSED OUTLINE

C. Different approaches to determining the tax base – states have typically taken two different approaches to determining the sales tax base:

1. **Broad definition** with a number of **specific exemptions**: States generally tax tangible personal property broadly defined, with certain exclusions or exemptions, and
2. **Narrow definition** with **fewer specific exemptions**: States generally tax services and intangible or digital items by narrowly defining specific services or items, with certain exclusions or exemptions

EXCLUSIONS AND EXEMPTIONS – PROPOSED OUTLINE

II. Common Exclusions/Exemptions

Because states approach the determination of the tax base in different ways—the summary here includes common carve-outs whether they are exclusions or exemptions.

A. Typical general exclusions (not part of the “price” or “receipts”):

1. Certain additional charges and fees (e.g., shipping and delivery charges)
2. Cash discounts, coupons, trade-ins, rebates, etc.
3. Interest, consignment fees, collection fees and similar charges

EXCLUSIONS AND EXEMPTIONS – PROPOSED OUTLINE

B. Common exclusions based primarily on the definition of the item:

1. Real property and improvements
2. Clothing and related items
3. Food
4. Vehicles and related transportation property
5. Medical health-related items
6. Items subject to other excise taxes
7. Currency and related intangible items
8. Art and collectibles

EXCLUSIONS AND EXEMPTIONS – PROPOSED OUTLINE

C. Common exclusions/exemptions based primarily on the identity of the seller or buyer:

1. Occasional sellers
2. Related-party transactions
3. Government
4. Religious organizations
5. Educational, non-profit, or charitable organizations
6. Health or medical organizations or persons
7. Local quasi-governmental functions
8. Veterans or other persons

EXCLUSIONS AND EXEMPTIONS – PROPOSED OUTLINE

D. Common exemptions based primarily on use:

1. Purchases or leases for resale or release
2. Manufacturing or production inputs
3. Component parts of items to be resold

EXCLUSIONS AND EXEMPTIONS – PROPOSED OUTLINE

E. Common exemptions based on multiple criteria:

1. Business purchases of office supplies

2. Business purchases of energy

3. Manufacturers' purchases of equipment and production tools

4. Agricultural business purchases of equipment and production tools

5. Mining and natural resource industry equipment

6. Sales tax holidays for certain items

SO FAR BASED ON WORK GROUP DISCUSSIONS

- **Some practitioner concerns would apply to exemptions generally – including documentation and good faith requirements for sellers to accept exemption certificates.**
- **States that provide broad B2B exemptions may not have to amend various exemption provisions but will still have to look at how the general exemption is documented.**

OTHER RELATED ISSUES

- **States are continuing to look at digital advertising.**
- **Litigation involving Maryland's tax is ongoing.**



QUESTIONS OR FEEDBACK

