Sales Tax Information for Computer Service Providers
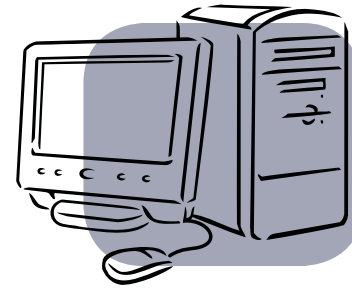
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Introduction

This publication gives sales tax information for sales, installation, repair and support of software, computers and related equipment. It includes Utah law and Tax Commission rules, but is not all-inclusive. Future law or rule changes may change this publication.

Find general sales and use tax information in Publication 25.

General Information

Sales tax is imposed on the sale, lease or rental of tangible personal property and certain services.

Hardware

Computer hardware and parts are tangible personal property and subject to sales tax.

Software

Software includes computer programs, applications, scripts and instruction sets.

Prewritten Software

Prewritten software is created for general sales and not for the special needs of a single customer.

Prewritten software is tangible personal property.

Sales, rentals, leases and charges for using prewritten software in Utah are taxable regardless of delivery method (boxed, hosted, downloaded, etc.).

Charges to upgrade prewritten software are also taxable.

Charges to modify or adapt prewritten software for a customer are nontaxable if the charges are reasonable and separately stated on the invoice. However, if the charges to modify or adapt prewritten software include charges for the prewritten part of the software, those charges for the prewritten part of the software are taxable.

→ **NOTE:** Simply adding a client name or account number is not a modification or adaptation of prewritten software. Charges for this type of service connected with a prewritten software sale are taxable.

Custom Software

Custom software is written for the needs of a specific customer. Custom software is not tangible personal property.

Sales, rentals, leases and charges for using custom software are nontaxable. Charges to maintain, support or upgrade custom software are also nontaxable.

Remotely Accessed Software

Remotely accessed software includes hosted software, application service provider (ASP) software, software-as-a-service (SAAS), and cloud computing applications.

License fees for remotely accessed prewritten software are taxable if the purchased software is used in Utah. If remotely accessed software is used at more than one location and at the time of the transaction, the buyer provides the seller a reasonable and consistent method for allocating the transaction between those locations, the seller must source the transaction to those locations. If the buyer does not provide the seller with a method of allocating a transaction that is used in multiple locations, the seller must source the transaction to the buyer's address.

Example 1

Seller, who has Utah nexus, offers remote access to prewritten software through servers located outside of Utah. Buyer, who has a single location in Utah, purchases this remote access. Seller will collect tax at the rate in Buyer's location.

Example 2

Seller, who has Utah nexus, offers remote access to prewritten software through servers located in Utah. Buyer, who has multiple locations, purchases the remote access for use throughout its multiple locations. Buyer provides Seller with a reasonable and consistent method for allocating the purchase among the locations where it will be used. Seller must source the transaction to Buyer's locations using the allocation method provided by Buyer.

Example 3

Seller, who has Utah nexus, offers remote access to prewritten software through servers located in Utah. Buyer provides Seller a copy of its Utah direct pay permit. Because Buyer provides Seller a copy of its direct pay permit, Seller is not required to collect and pay Utah sales tax on the transaction. Buyer must either source the transaction to the buyer's location, or among the locations where the software is used by applying a reasonable and consistent method.

Example 4

Seller, who does not have Utah nexus, offers remote access to prewritten software through servers located outside Utah. Buyer, who has multiple locations, purchases the remote access for use throughout its multiple locations. Because Seller does not have nexus in Utah, Seller is not required to collect and pay Utah sales tax on the transaction. Buyer must either source the transaction to the Buyer's location, or among the locations where the software is used by applying a reasonable and consistent method.

Example 5

Seller is an ASP with servers in several states, including Utah. One of its customers, Buyer, is a multistate business with employees in Utah and three other states. All of Buyer's employees use Seller's ASP software. Because Buyer provides Seller a copy of its Utah Direct Pay Permit, Seller does not collect and pay Utah sales tax on its ASP contract with Buyer. Instead, Buyer will either pay Utah sales tax directly to the Tax Commission at the rate in effect at its Utah location, or allocate the sales price of the ASP contract among its four locations. A reasonable method of allocation would be, for example, allocating the sales price based on the number of Buyer's employees in Utah using the ASP software and the total number of Buyer's employees in the four states using the ASP software.

License fees for remotely accessed custom software are not taxable.

Computer Services

Charges to repair or replace computer hardware are taxable. If there is a taxable repair, the tax will also apply to any other services performed that are necessary to complete that repair.

The following services are examples of services that are not repairs, and therefore not taxable, unless they are performed as part of a repair:

- Providing customer service or technical support
- Providing computer monitoring service
- Running diagnostics

Nontaxable services include:

- Charges for installing software if the installation charges are separately stated on the invoice
- Performing services in the absence of a repair
- Removing software from a computer (this includes removing a virus, spyware or malware)
- Converting data from one form to another
- Web page development
- Data backup or disaster recovery service in the absence of a repair
- Compressing or zipping files
- Nontaxable internet access fees
- Email access fees
- Attaching personal property to real property (See Publication 42 for more information about attaching personal property to real property.)

Invoices

In general, if a sale has taxable and nontaxable items, the entire sale is taxable unless you separately document the taxable and nontaxable charges on the invoice or in your books and records.

➔ **EXCEPTIONS:**

- Installation and delivery charges and charges to modify or adapt prewritten software must be separately stated on the invoice to be nontaxable. If these charges are not separately stated on the invoice, the entire charge is taxable (even if the charges are separately documented in your books and records).

- If an optional computer software maintenance contract includes taxable and nontaxable products that are not separately itemized on an invoice, 40 percent of the purchase price of the contract is subject to sales tax. (An optional computer software maintenance contract is an optional contract that requires a seller to provide a buyer with either future upgrades to computer software, or support services related to software, or both.)