

# SALES AND USE TAX NEWSLETTER

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KBF's quarterly newsletter updates clients on sales and use tax news, developments, and trends from around the country.



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## MULTISTATE TAX COMMISSION

### Uniformity Project – Sales Tax on Digital Goods & Services

During its July meeting, the Uniformity Committee of the Multistate Tax Commission agreed to begin the process of outlining a white paper report on the state sales taxation of digital products. This comes after the state of Washington made a presentation to the Committee proposing a project that plans to create a simple and more adaptable approach to imposing sales taxes on digital goods. The white paper plans to address a wide range of digital products, which include but are not limited to applications of all types, cloud-based software, streaming and video services, cryptocurrency, and nonfungible tokens (NFTs).

Though the white paper is in a preliminary stage and will require a significant amount of additional research, market review, studies, and discussions, there are already a few early takeaways. There seems to be an agreement that guidance is needed with respect to definitions and sourcing. Some of the main topics to address will include bundling transactions, multiple points of use, eliminating “Business to Business” transactions, among other issues. The goal is to have an outline of the white paper report by next April.

*MTC Staff Status Report – November 9, 2021*



## HAWAII

### Issues Guidance on the Taxability of Software

In August of 2021, the Hawaii Department of Taxation issued a Tax Information Release to clarify and explain the Department's position on the general excise tax treatment of sales of software. The Department clarified its position that sales of canned or prewritten software, as well as sales of custom software, constitute taxable transactions. The sale of prewritten or canned software is considered to be the sale of tangible personal property, regardless of the delivery method (whether electronically or through a tangible medium). The sale of custom software is considered to be a taxable service regardless of whether the software is transferred through a sale or license to use.

*Tax Information Release No. 2021-06*



**IOWA**  
**Determines Web Hosting to be a Non-Taxable Service**

In October of 2021, the Iowa Department of Revenue released new tax guidance to explain the taxability of “Web Hosting” services. Though the term “Web Hosting” is not explicitly defined in the Iowa Code, it is generally defined as an online service that allows users to publish their website files onto the internet for the public to access. Though the Department previously determined that web-based storage is a taxable service, the Department’s new guidance states that web hosting is focused on the publication of data rather than the storage of data. Thus, web hosting is not a taxable service in Iowa.

*Updates to the “Taxation of Specified Digital Products, Software & Related Services” Page*



**MISSISSIPPI**  
**Proposes New Computer Software and Services Definitions**

The Mississippi Department of Revenue has proposed amendments to the Mississippi Code to clarify taxable transactions and services relating to computer equipment, software, and services. The proposed amendments modify the definitions of “computer hardware” and “computer software” and add definitions of “cloud computing”, SaaS, IaaS and PaaS. These amendments were filed on September 24, 2021 and would take effect 30 days after filing.

*Amendments to Miss. Code Title 35.IV.5.06 Computer Equipment, Software, and Services*



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