

## Other states' taxation (sales/use or gross receipts tax) of various "computer services"

### States that tax many of the items that are listed in the new Maryland statute:

- **Connecticut:** 1% sales/use tax on "computer and data processing services" (versus the 6% general sales tax on sales of tangible property and other services). Taxable at 1% are items such as programming, code writing, modification of existing programs, feasibility studies, provision of computer time, storage and filing of information, consulting services, creating of custom software, computer training, online access to information, installation and implementation of canned or custom software programs and systems. Creation, hosting or maintenance of an internet website are not taxable. Charges for accessing another party's website are 1% taxable.
- **South Dakota:** Sales tax on all services used in the state unless specifically exempted.
- **Delaware:** license taxes on most services, measured by gross receipts.
- **Hawaii:** gross receipts tax on most services; exclusion for services exported out of state.
- **New Mexico:** gross receipts tax on most services performed in the state.
- **Washington:** business and occupation tax on most services, measured by gross receipts.

### States that tax several of the items that are listed in the new Maryland statute:

- **District of Columbia:** Sales/use tax applies to "data processing services" e.g. data entry, software development and computer programming, specifying hardware configurations, and evaluating technical processing characteristics.
- **Mississippi:** Sales/use tax on design and programming of computer software, services for recovery of damaged or deleted data, initial training of user in connection with sale of computer or software. Nontaxable are identification of management information needs, conceptual design of procedures, feasibility studies, data processing services, information retrieval services.
- **Ohio:** Sales/use tax applies to automatic data processing ("processing of others' data"); and to computer services when provided in conjunction with the sale, lease or operation of taxable computer equipment or systems, including: specifying hardware configurations, evaluating technical processing characteristics (reviewing or testing, but not conducting feasibility studies or analysis of hardware or software needs), computer programming of system software (tax not applicable to application software programming), and training computer programmers and operators.
- **Texas:** Sales/use tax on installation and maintenance of computer programs; data processing services are taxable at 80% of price: "the processing of information for the purpose of compiling and producing records of transactions, maintaining information, and entering and retrieving information." Examples of nontaxable unrelated services include consultation, development of and preparation of feasibility studies, design and development, or training.

### **Other categories:**

- "Canned" computer software is taxable as tangible personal property in many states, while "custom" software is exempt in many states as the provision of a nontaxable service (i.e., it is the programmer's time, not a product). Some states exclude from taxation software that is electronically downloaded.
- Some states tax all computer software, both "canned" and "custom", e.g., ARK, DC, HI, MS, NE, SD, TN, TX
- "Information services" are taxable in several states (usually defined as the furnishing, creating, or retrieving of information): CT, DC, FL, HI, ID, MASS, NJ, NM, NY, ND, SD, TX, WV.
- Repair services to tangible personal property are taxable in several states: ARK, CT, DC, FL, HI, IA, KS, LA, MS, NJ, NM, OH, PA, SD, TN, TX, UT, VT, WA, WV, WY.
- Services of installing tangible personal property, e.g. computers, are taxable in several states: FL, HI, KS, MN, MS, NJ, NM, NY, OH, PA, SD, TN, TX, UT, VT, WV.

**Pennsylvania's** law taxed computer services for a time, but the section was repealed in 1997. Attorneys tell us that hundreds of court cases were in process over various definitions and sourcing issues under the computer services sales tax.

**Florida** enacted a sales tax provision to tax dozens of services, not just computer services; the tax was repealed after being in place for only several months.

**Massachusetts** repealed, prior to its effective date, a sales tax provision that would have taxed many services.