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Tennessee Important Notice

2015

Tennessee Important Notice, No. 15-14, 06/01/2015

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Date Issued: 06/01/2015

Tax Type(s): Sales and Use Tax

Remotely Accessed Software

Changing Technology Requires Law Change

Computer software has been subject to sales and use tax in Tennessee since 1977. When enacted, and in subsequent amendments, the law addressed the methods by which customers accessed and used computer software at that time. Changing technology, however, has made it possible to use software remotely through the Internet.

To address this change in technology, Public Chapter 514, effective July 1, 2015, says that the taxable use of computer software in Tennessee includes the access and use of software that remains in possession of the seller and is remotely accessed by a customer for use in this state. This provision ensures that software remains subject to sales and use tax regardless of a customer's method of use.

Collection of Tax by the Seller

The seller must collect tax at the 7% state tax rate, plus the applicable local tax rate, on the sales price for the use of remotely accessed software during billing periods that begin on or after July 1, 2015. The tax applies to any access and use of the software from a location in Tennessee, and it applies whether the charge for the software is on a per use, per user, per

license, subscription, or any other basis. The software is accessed from a location in Tennessee if a customer's residential or primary business address is in this state.

Payment of Tax by the User

If the seller does not collect the tax, purchasers in this state who remotely access and use software must report and pay use tax directly to the Department on the purchase price for the use of the remotely accessed software.

Users in Multiple States

If the purchaser pays for access to software that will be used by individuals who are located in this state, and other individuals who are located outside this state (for example, the purchaser's employees), then the price paid by the purchaser may be allocated based on the percentage of users located in Tennessee to determine the amount subject to Tennessee tax.

The seller must obtain a fully completed Streamlined certificate (available on the Department's website) from a Tennessee customer to document an exemption claimed for the portion of the price that corresponds to the percentage of users located outside Tennessee. The seller must collect tax from the Tennessee customer on the percentage of the price that is allocated to Tennessee.

The Streamlined certificate must include the customer's Tennessee sales and use tax registration number. In addition, on Line 5, "Reason for Exemption," the customer should circle "Other" with an explanation such as, "remote access software used by employees located in multiple states" and specify the percentage of users located outside of Tennessee.

Purchases for Resale

A dealer that purchases software exclusively for the purpose of providing remote access and use of that software to its customers may purchase the software without tax using a resale certificate.

Fabricating Software for Your Own Use

Remote access and use of software by the purchaser exclusively for fabricating other software that is owned and used only by that person is exempt from sales and use tax.

Information Services, Data Processing Services, and Others Are Not Subject to Tax

As discussed above, this public chapter says that software is subject to sales and use tax to the same extent, regardless of the method of delivery or use. Likewise, various services are not subject to sales and use tax, regardless of the method of delivery. Such services include, but are not limited to: information or data processing services (including the capability of the customer to analyze such information or data provided by the dealer); payment or transaction processing services; payroll processing services; billing and collection services; Internet access; the storage of data, digital codes, or computer software; or the service of converting, managing, and distributing digital products. These services are not subject to tax even if the purchaser uses remote access to utilize or receive the service.

For More Information

Visit www.tn.gov/revenue. The Department will be providing ongoing guidance through our [Revenue Help](#) feature on our website.

If you have a specific question that you would like to see addressed, click on Revenue Help to submit a question. Choose the option “remotely accessed software” from the drop-down box.

References

Tenn. Code Ann. § 67-6-231; Public Chapter 514 (2015)

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