

50 State Survey of Digital Goods Tax Treatment - Citations

<u>State</u>	<u>Citations</u>
Alabama	Ala. Code § 40-12-220 (8); § 40-23-1(a)(5); § 40-23-1(a)(10); § 40-23-2(1); § 40-23-61(a); Ala. Admin. Code 810-6-1-.37; 810-6-1-.119; <i>Robert Smith FlipFlopFoto v. State of Alabama</i> (Admin. Law. Div. Docket No. S. 05-1240, Final Order entered April 30, 2007)
Arkansas	A.C.A. § 26-52-103 (17), (18), (20); § 26-52-301; § 26-52-315 (19)(C)(ix); § 26-53-106; § 26-53-109
Arizona	A.R.S. § 42-5001 (13), (16); § 42-5008; § 42-5061(A)(48)(b); § 42-5155; § 42-5159(A)(12)(b); A.A.C. R15-5-150 (3); R15-5-154 (B); R15-5-1101 (2), (5); Arizona Department of Revenue, Arizona Transaction Privilege Tax Ruling TPR 03-5 (May 22, 2003); Arizona Transaction Privilege Tax Ruling TPR 93-48 (January 3, 1994); Private Letter Ruling LR06-005 (August 16, 2006); Private Letter Ruling LR06-004 (June 28, 2006); Private Letter Ruling LR05-010 (September 26, 2005); Private Letter Ruling LR04-010 (November 15, 2004); Private Letter Ruling LR04-007 (August 31, 2004); Private Letter Ruling LR04-006 (June 22, 2004); Private Letter Ruling LR02-020 (November 5, 2002)
California	Cal.Rev. & T.Code § 6007; § 6016; § 6051; § 6201; Cal. Admin. Code tit. 18, § 1502 (f)(1)(D); [Assembly Bill 1956 (2008) failed in Committee, reconsideration granted on 4/14/08]
Colorado	C.R.S. § 39-26-102 (9), (10), (15); § 39-26-104 (1)(a); § 39-26-202; 1 Colo. Code Regs. 201-5 (SR-7)
Connecticut	Conn.Gen.Stat. § 12-407 (a)(2), (3), (13), (26)(A)(xii), (35), (36), (37); §12-408; § 12-411; Conn. Department of Revenue Services, Policy Statement 2006 (8) (March 23, 2007); Conn. Department of Revenue Services, Policy Statement 2004 (2) (Oct. 21, 2004)
Florida	F.S.A. § 212.02 (14),(15), (19); § 212.05; Fla. Admin. Code Ann. r. 12A-1.062

Georgia	G.C.A. § 48-8-2 (6), (8), (11); § 48-8-30
Hawaii	H.R.S. § 237-1; § 237-3; § 237-13; § 238-2
Idaho	I. C. § 63-3609; § 63-3612; § 63-3616; § 63-3619; § 63-3621
Illinois	35 ILCS 120/1; 35 ILCS 120/2; 35 ILCS 120/2-25; 35 ILCS 105/3; 86 Ill. Adm.Code 130.2105(a)(3); 86 Ill. Adm. Code 130.1935; Illinois Department of Revenue Private Letter Ruling ST 07-0068- GIL (June 19, 2007)
Indiana	Senate Bill 233 (2008 Ind.Legis.Serv. P.L. 19-2008 (S.E.A. No. 233)) signed by Governor on 3/3/08 - Sec. 1 added new section I.C. 6-2.5-1-16.2; Sec. 2 added new section I.C. 6-2.5-1-16.3; Sec. 3 added new section I.C. 6-2.5-1-16.4; Sec. 5 added new section I.C. 6-2.5-1-26.5; Sec. 6 added new section I.C. 6-2.5-4-16; Sec. 7 amended I.C. 6-2.5-13-1 Commissioner's Directive No.21 (June 1, 2008) I.C. 6-2.5-1-2; -5; -13; -14; -15; -19; -24; -27; -27.5(c)(9); I.C. 6-2.5-2-1; I.C. 6-2.5-3-2; I.C. 6-2.5-4-1
Iowa	I.C.A. § 423.1(8), (9), (10), (34), (45), (46), (54); I.C.A. § 423.2; I.C.A. § 423.3 (67); I.C.A. § 423.5; I.C.A. § 423.6
Kansas	K.S.A. § 79-3602 (h), (m), (s), (cc), (jj), (kk), (pp),(aaa)(9); § 79-3603(s); Kansas Department of Revenue Publication EDU-71, Sales Tax Guidelines: Taxing Charges for Computer Products and Services and Internet Related Sales and Services (February 15, 2008); Kansas Department of Revenue Private Letter Ruling P-2007-006 (December 20, 2007)
Kentucky	2008 Kentucky Laws Ch. 95 (HB 629) – Sec. 4 (12), (18), (19), (22) [amending/adding to K.R.S. § 139.010]; [K.R.S. § 139.100, § 139.120 and § 139.160 ALL REPEALED]

K.R.S. § 139.105 (1)(c)(3); § 139.160; § 139.195 (26); § 139.195 (29)(c)(9); § 139.200 (1); § 139.200 (2)(f); § 139.310; Kentucky Sales Tax Facts Publication Vol. 6, No. 1 (April 2004)

Louisiana	L.R.S. § 47:301(10); § 47:301(12); § 47:301(16); § 47:301(29)(x)(ix); § 47:302; <i>South Central Bell Telephone Company v. Barthelemy</i> , 643 So. 2d 1240 (La. 1994); <i>City of New Orleans v. Baumer Foods, Inc.</i> , 532 So. 2d 1381 (La. 1988)
Maine	36 M.R.S. § 1752 (1-E), (11), (13); (17); § 1811; § 1861
Maryland	MD Code, Tax – General, § 11-101 (c-1), (h), (i), (k); § 11-102; § 11-219(b); § 11-225
Massachusetts	M.G.L. 64H § 1; M.G.L. 64H § 2; M.G.L. 64I § 2; Massachusetts Department of Revenue, Technical Information Release TIR 05-15: Transfers of Prewritten Computer Software (February 10, 2006)
Michigan	M.C.L. 205.51(1)(b); 205.51a (b), (c), (d), (j), (n), (p); 205.52; 205.69; 205.70; 205.93
Minnesota	Minn. Stat. §297A.61 subd. 3(f); subd. 4; subd. 10; subds. 16a-16c; subd. 17; subds. 17a-17b; subd. 24(c)(9); subd. 38; subd. 45; §297A.62 (held partially invalid by <i>Union Pacific Railroad Company v. Minnesota Department of Revenue</i> , 507 F.3d 693 (8 th Cir. 2007)); §297A.63 (Id.); §297A.668; Minn. R. 8130.9910; Minnesota Department of Revenue, Sales Tax Fact Sheet 119, Telecommunications Services, (Revised 3/07); Minnesota Department of Revenue, Sales Tax Fact Sheet 134, Computer Software, (Revised 2/04); Minnesota Department of Revenue, Revenue Notice #03-10: Sales and Use Tax – Telecommunications Services (September 8, 2003)
Mississippi	Miss. Code § 27-65-3(f), (j); § 27-65-7; § 27-65-17; § 27-65-19; § 27-67-5
Missouri	V.A.M.S. 144.010(10); 144.020; 144.605(11); 144.610

Nebraska	<p>Legislative Bill 916 signed by the Governor on 4/14/08. 2008 Nebraska Laws L.B. 916 – new - Sec. 9, Sec. 10, Sec. 11, Sec. 12, Sec. 13</p> <p>Neb. Rev. St. § 77-2701.16 (9) [amended by L.B. 916 – Sec. 7 (9)]; § 77-2701.31; § 77-2701.39; § 77-2703 (1)[amended by L.B. 916 – Sec. 15 (1)]; § 77-2703 (2); § 77-2703.01 (10) [amended by L.B. 916 – Sec. 16 (10)]; § 77-2703.04 (7)(aa)(ix)</p> <p><i>American Business Information, Inc. v. Egr</i>, 264 Neb. 574, 650 N.W.2d 251 (2002); <i>May Broadcasting Co. v. Boehm</i>, 241 Neb. 660, 490 N.W.2d 203 (1992)</p>
Nevada	N.R.S. 360B.067; .095; .360; .410; .415; .420; .440; .470; .485; 372.050; .085; .105; .185
New Jersey	N.J.S.A. 54:32B-2(e), (g), (vv); 54:32B-3(a),-3(b)(2); 54:32B-3.1; 54:32B-3.2; 54:32B-6; 54:32B-8.56
New Mexico	N.M.S.A. 1978 § 7-9-3 (J); § 7-9-3.5; § 7-9-4; § 7-9-7; § 7-9-57.1
New York	<p>NY Tax §1101 (b)(4),(6),(14); § 1105(a),(c)(1), (c)(9); § 1110; N.Y. Comp. Codes R. & Regs. tit. 20, § 526.7;§ 526.8; § 527.3; Google, Inc., Adv.Op. Comm. T&F, May 2, 2008, TSB-A- 08(22)S; State of New York Division of Tax Appeals, Matter of DZ Bank, DTA No. 821251 (May 1, 2008); Company, Adv.Op. Comm. T&F, March 24, 2008, TSB-A-08(18)S; Spiritual Compass, LLC, Adv.Op. Comm. T&F, June 22, 2007, TSB-A- 07(16)S; New York State Department of Taxation and Finance, Office of Tax Policy Analysis, Technical Services Division, Taxability of Electronic Filing Services, NYT-G-07(1)S (May 31, 2007); Apple Computer, Inc., Adv. Op. Comm. T&F, May 17, 2007, TSB-A-07(14)S; Universal Music Group, Adv. Op. Comm. T&F, April 18, 2001, TSB-A-01(15)S; The Stock Market Photo Agency, Inc., Adv. Op. Comm. T&F, November 12, 1999, TSB-A- 99(48)S</p>
North Carolina	N.C.G.S. § 105-164.3 (4b), (4c), (5c), (5d), (8d), (17a), (29a), (34), (36), (46), (48)(h); § 105-164.4; § 105-164.6; § 105-164.13 (43),(43a); North Carolina Department of Revenue, Sales and Use Tax Technical Bulletins, Section 28-2, Computer Software (March 1, 2007); In the Matter of The Proposed Assessment for the period

July 1, 1999 through April 30, 2002, by the Secretary of Revenue of North Carolina, Docket No. 2003-171 (August 29, 2003);); In the Matter of The Proposed Assessment for the period February 1, 1998 through February 28, 2001, by the Secretary of Revenue of North Carolina, Docket No. 2002-141 (August 9, 2002)

- North Dakota N.D.C.C. § 57-39.2-01(17), (21); § 57-39.2-02.1(g); N.D. Admin. Code § 81-04.1-03-11; North Dakota Office of State Tax Commissioner, Sales Tax Guideline, Computers (September 2006); North Dakota Office of State Tax Commissioner, Sales Tax Guideline, Photographers (August 2001)
- Ohio R.C. § 5739.01(B), (E), (Y), (AA)(1)(i), (YY), (AAA), (BBB), (CCC), (DDD), (LLL); § 5739.02; § 5739.033; § 5741.02; Ohio Department of Taxation, Opinion of the Tax Commissioner, Electronic Information, Opinion No. 05-0005 (July 20, 2005); Ohio Department of Taxation, Opinion of the Tax Commissioner, Software, Opinion No. 05-0001 (June 20, 2005).
- Oklahoma 68 Okl.St. Ann §1352 (4), (5), (9), (20), (22), (24); §1354 (1), (9); §1354.27; §1354.29; § 1357 (32); §1402; O.A.C. 710:65-13-52; 710-65-18-3
- Pennsylvania 72 P.S. § 7201(k), (m); 72 P.S. § 7202; 61 Pa. Code § 31.1; § 31.7; § 60.19; Pennsylvania Department of Revenue, Pennsylvania Sales and Use Tax, SUT-08-005-Software (February 11, 2008); Pennsylvania Department of Revenue, Pennsylvania Sales and Use Tax, SUT-07-007-Telecommunication Services (October 16, 2007); Pennsylvania Department of Revenue, Pennsylvania Sales and Use Tax, SUT-05-033-Web-Based Services (December 19, 2005); Pennsylvania Department of Revenue, Pennsylvania Sales and Use Tax, SUT-04-008-Magazine on CDs (February 2, 2004); *Graham Packing Company v. Commonwealth*, 882 A.2d 1076 (Pa. Cmwlth. 2005)
- Rhode Island Gen. Laws 1956, § 44-18-7.1(g), (y)(i)(G)(9); § 44-18-8, § 44-18-16; § 44-18-18; § 44-18-20; § 44-18.1-11; R.I. Code R. 01 086 023
- South Carolina S.C. Code § 12-36-60, § 12-36-110, § 12-36-910, § 12-36-1310; § 12-36-1330; State of South Carolina Department of Revenue, S.C.

Private Letter Ruling #07-7 (December 14, 2007); State of South Carolina Department of Revenue, S.C. Revenue Ruling #06-8 (November 16, 2006); State of South Carolina Department of Revenue, S. C. Revenue Ruling #03-5 (December 9, 2003); State of South Carolina Department of Revenue, S.C. Information Letter Ruling #99-9 (May 6, 1999); State of South Carolina Department of Revenue, S.C. Revenue Ruling #96-3 [no date provided]

South Dakota

2008 South Dakota Laws Ch. 51 (HB 1017) – Sec. 1 [adding new section to 10-45], Sec. 4 [adding new subdivision to 10-45-1], Sec. 10 [amending 10-45-5], Sec. 29 [amending 10-45-108], Sec. 30 [adding new section to 10-46], Sec. 36 [adding new subdivision to 10-46-1]

S.D.C. L. §10-45-1(10); S.D.C.L. §10-45-1(14); S.D.C.L. § 10-45-2; S.D.C.L. § 10-45-4; S.D.C.L. § 10-45-5 [amended by Sec. 10]; S.D.C.L § 10-45-108 [amended by Sec. 29]; S.D.C.L. § 10-46-1(16); S.D.C.L. § 10-46-2; S.D.C.L. § 10-46-2.1

2008 S.D. Laws Ch. 51 (HB 1010) – Sec. 2 [adding new section to 10-45] and Sec. 3 [adding new section to 10-46]

Tennessee

2008 Tennessee Laws Pub. Ch. 1106 (S.B. 4173)

T.C. § 67-6-102 (16), (17), (22), (30), (60), (68), (70), (77), (80), (81)(B)(ix); § 67-6-202; § 67-6-203; § 67-6-231

Texas

Tex. Tax Code § 151.0031; § 151.0035; §151.0038; § 151.009; § 151.010; § 151.0103; § 151.051; § 151.061; §151.101; § 151.351; Tex. Admin. Code tit. 34, § 3.308(b); Texas Comptroller of Public Accounts, Hearing No. 44,668, Doc. No. 200411965H (November 19, 2004); Texas Comptroller of Public Accounts, Letter/Memo No. 200105241L (May 18, 2001)

Utah

2008 Utah Laws Ch. 384 (H.B. 206) – Sec. 8, Sec. 10, Sec. 11

U.C. § 59-12-102 (20) [amended by H.B. 206, Sec. 8 (23)]; U.C. § 59-12-102 (21)[amended by H.B. 206, Sec. 8 (24)]; U.C. § 59-12-102 (23) [amended by H.B. 206, Sec. 8 (27)]; U.C. § 59-12-102 (31)[amended by H.B. 206, Sec. 8 (36)]; U.C. § 59-12-102 (45) [amended by H.B. 206, Sec. 8 (49)]; U.C. § 59-12-102 (68) [amended by H.B. 206, Sec. 8 (77)]; U.C. § 59-12-102 (81)

[amended by H.B. 206, Sec. 8 (92)]; U.C. § 59-12-102 (83)
[amended by H.B. 206, Sec. 8 (94)]; U.C. § 59-12-102 (84)
[amended by H.B. 206, Sec. 8 (95)]; U.C. § 59-12-102 (97)
[amended/added by H.B. 206, Sec. 8 (108)];

U.C. § 59-12-103 (1)(a); U.C. § 59-12-103 (1)(l); U.C. § 59-12-103 (1)(n) [added by H.B. 206, Sec. 10 (1)(n)]

U.C. § 59-12-104 (13); U.C. § 59-12-104 (17); U.C. § 59-12-104 (18), U.C. § 59-12-104 (59), U.C. § 59-12-104 (63) [amended by H.B. 206, Sec. 11 (13), (17), (18), (59), (63)]

U. A. C. R865-19S-92

Utah State Tax Commission, Sales and Use Tax General Information, Publication 25, p. 9 (Rev. 11/07)

- Vermont 32 V.S.A. § 9701(5), (7), (19)(I); § 9771; § 9773; Vt. Code R. 10 060 033, Reg. §1.9701 (7) (B)(2); Vermont Department of Taxes Formal Ruling 2006-08 (December 5, 2006); Vermont Department of Taxes Formal Ruling 2006-02 (September 11, 2006); Vermont Department of Taxes Formal Ruling 2004-06 (June 25, 2004); Vermont Department of Taxes Formal Ruling 2004-05 (June 25, 2004); Vermont Department of Taxes Formal Ruling 2004-02 (March 10, 2004)
- Virginia Va. Code § 58.1-602; § 58.1-603; § 58.1-604; § 58.1-609.5(1); § 58.1-647; § 58.1-648 (C)(viii); Rulings of the Tax Commissioner, Guidelines and Rules for the Virginia Communications Taxes, PD 06-138 (November 1, 2006); Rulings of the Tax Commissioner, Software was delivered electronically to Va, Burden of proof on, PD 05-114 (July 18, 2005); Rulings of the Tax Commissioner, Taxability of prewritten software and software maintenance updates, PD 05-44 (April 4, 2005); Rulings of the Tax Commissioner, Online digital identification service to companies, nexus, PD 02-113 (July 26, 2002)
- Washington RCW 82.04.040; 82.04.050; 82.04.215; 82.04.290(2); 82.04.29001; 82.08.010(6), (7); 82.08.020; 82.12.020; WAC 458-20-155

West Virginia 2008 West Virginia Laws Ch. 218 (S.B. 596)

 2008 West Virginia Laws Ch. 216 (S.B. 552)

 W.Va. Code § 11-15-2 (b)(16) [renumbered to 11-15-2 (b)(17) by S.B. 552]; § 11-15-3; § 11-15A-2

 W.Va. Code § 11-15B-2(b)(10) ; § 11-15B-2(b)(11) ; § 11-15B-2(b)(18); § 11-15B-2(b)(30); § 11-15B-2(b)(40); § 11-15B-2(b)(47); § 11-15B-2(b)(59); § 11-15B-2b(b)(1)(B)(v); § 11-15B-14(a)(3); §11-15B-15[all amended and reenacted by S.B. 596]

Wisconsin W.S. § 77.51 (14), (20), (21m); §77.52; § 77.53; Wisc. Admin. Code § Tax 11.71; Wisconsin Department of Revenue, Frequently Asked Questions – Sales and Use Tax Treatment Computer - Hardware, Software, Services, Wisconsin Tax Bulletin 152 (July 2007)

Impose Sales and Use Tax on Digital Products (General Fund Taxes – General Sales and Use Tax), Wisconsin Legislative Fiscal Bureau Paper # 330, Joint Committee on Finance (June 8, 2007)

Wyoming W.S. 1977 § 39-15-101 (a)(vi), (vii), (ix), (xxv), (xxvi), (xxvii), (xxx), (xxxiii), (xxxvii), (xxxix)(U)(IX); § 39-15-103; § 39-16-103; State of Wyoming Department of Revenue Excise Tax Division, Tax Pub # 7, Sales Tax Guidelines for Photography (March 3, 2005)

Alaska

Delaware

Montana

New Hampshire

Oregon