

Sales/Use:

Maryland: Updated Guidance on Taxation of Digital Products Reflects Newly Enacted Legislation

Business Tax Tip #29 Sales of Digital Products and Digital Code, Md. Comptroller (rev. 6/3/21). Following Maryland's 2021 enactment of legislation that subjects certain defined "digital products" to Maryland sales and use tax [see H.B. 932 (2021), and *State Tax Matters*, Issue 2021-7, for more details on this new law], as well as subsequently enacted legislation that includes some taxable "digital product" carveouts [see S.B. 787 (2021), and recently issued Multistate Tax Alert for more details on this new law], the Maryland Comptroller issued updated administrative guidance containing a "non-exhaustive list" of digital codes and digital products the sale of which is subject to Maryland's 6% sales and use tax if obtained or delivered by electronic means, effective March 14, 2021. According to this guidance, effective March 14, 2021, the sale of canned or commercial off-the-shelf (COTS) software obtained electronically by the buyer is a taxable digital product, and the sale of software as a service (SaaS) also is subject to Maryland's sales and use tax if the exemption for customized software does not apply. Other topics addressed in this administrative guidance include related definitions, exemptions and exclusions, services performed electronically, marketplace facilitators, nexus, and sourcing sales of digital products and codes. Please contact us with any questions.

[URL: https://www.marylandtaxes.gov/forms/Business_Tax_Tips/bustip29.pdf](https://www.marylandtaxes.gov/forms/Business_Tax_Tips/bustip29.pdf)

[URL: http://mgaleg.maryland.gov/mgawebsite/Legislation/Details/HB0932?ys=2020RS](http://mgaleg.maryland.gov/mgawebsite/Legislation/Details/HB0932?ys=2020RS)

[URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/STM/210219_11.html](https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/STM/210219_11.html)

[URL: http://mgaleg.maryland.gov/mgawebsite/Legislation/Details/sb0787?ys=2021RS](http://mgaleg.maryland.gov/mgawebsite/Legislation/Details/sb0787?ys=2021RS)

[URL: https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-mta-maryland-enacts-emergency-bill-addressing-taxation-of-digital-advertising-and-digital-products.pdf](https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-mta-maryland-enacts-emergency-bill-addressing-taxation-of-digital-advertising-and-digital-products.pdf)

— Joe Carr (McLean)
Managing Director
Deloitte Tax LLP
josecarr@deloitte.com

Ryan Trent (Charlotte)
Senior Manager
Deloitte Tax LLP
rtrent@deloitte.com

Michael Spencer (Washington, DC)
Manager
Deloitte Tax LLP
mispencer@deloitte.com

This document contains general information only and Deloitte is not, by means of this document, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This document is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this document.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee (“DTTL”), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as “Deloitte Global”) does not provide services to clients. In the United States, Deloitte refers to one or more of the US member firms of DTTL, their related entities that operate using the “Deloitte” name in the United States and their respective affiliates. Certain services may not be available to attest clients under the rules and regulations of public accounting. Please see www.deloitte.com/about to learn more about our global network of member firms.