

Indirect/Sales/Use:

Maryland: Updated Guidance on Taxation of Digital Products Reflects Legislation from 2021

Business Tax Tip #29 Sales of Digital Products and Digital Code, Md. Comptroller (rev. 4/22). 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 once again 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, 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

URL: <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

URL: <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>

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