

Sales/Use/Indirect:

Illinois DOR Addresses Taxability of Software Provided Through Cloud-Based Delivery System

General Information Letter ST 22-0027-GIL, Ill. Dept. of Rev. (12/2/22). Responding to a taxpayer inquiry involving taxability under the Retailers' Occupation Tax, the Illinois Department of Revenue (Department) clarifies that computer software provided through a cloud-based delivery system – a system in which computer software is never downloaded on to a client's computer and is only accessed remotely – generally is *not* subject to tax. However, if a provider of a service provides to the subscriber an application programming interface (API), applet, desktop agent, or a remote access agent to enable the subscriber to access the provider's network and services, the subscriber is receiving taxable computer software, unless the transfer qualifies as a nontaxable license of computer software. The Department also explains that if an Illinois customer downloads computer software for free from an out-of-state retailer's website or server that is also located out-of-state, the retailer, even though it is donating tangible personal property to the customer, has exercised no power or control over the property in Illinois and thus there is no taxable use of the property in Illinois under the Retailers' Occupation Tax. Please contact us with any questions.

URL:
<https://tax.illinois.gov/content/dam/soi/en/web/tax/research/legalinformation/letterulings/st/documents/2022/st22-0027-gil.pdf>

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