

## Sales/Use/Indirect:

### New York: SaaS Provider's Vendor Management System Fees are Deemed Taxable Software Licensing

*Determination DTA No. 829516*, N.Y. Div. of Tax App., ALJ Div. (2/9/23). In a case involving a taxpayer assisting large companies with gathering, organizing, assembling and managing their contingent labor force, an administrative law judge (ALJ) with the New York Division of Tax Appeals held that the taxpayer's charged vendor management system (VMS) fees constituted taxable licensing of prewritten software via a bundled transaction rather than nontaxable consulting services. In doing so, the ALJ noted that the taxpayer's VMS software is "anything but incidental to the entire bundled package being sold," and that even its website highlights how important and intertwined the VMS software is to its final product because the software streamlines, automates and integrates the entire bundle of services as a "web based application delivered through a software-as-a-service model." Despite the taxpayer's assertions to the contrary, the ALJ reasoned that the taxpayer's ultimate goal is to provide customers a seamless, automated and efficient system of fulfilling and monitoring their temporary employment needs, which requires utilization of the software technology license, and that separating the software component from the remaining services it offers "would appear to greatly diminish the value of the ultimate product customers purchased." Please contact us with any questions.

[URL: https://www.dta.ny.gov/pdf/determinations/829516.det.pdf](https://www.dta.ny.gov/pdf/determinations/829516.det.pdf)

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