



THE POWER OF BEING UNDERSTOOD

SALES AND USE TAX ON DIGITAL GOODS AND SERVICES

Understand your responsibilities for collecting and remitting transaction tax in the digital economy

The digital age has created a complicated playing field for states and businesses trying to make sense of the application of sales and use tax outside the bounds of the traditional tangible personal property environment.

Through digital media and the cloud, consumers are able to purchase and put to immediate use videos, music, software, data remote storage, security services, brokerage services, 3-D print manufacturing, etc. anytime, anywhere.

Is your business properly accounting for the associated sales and use tax for goods and services deployed or received digitally? It is difficult to know.

At RSM, we closely follow developments in local, state and federal law in this area and are prepared to help you determine how your business fits into this evolving landscape.

Are you at risk for compliance mistakes?

States are seeking revenue from a range of digital transactions, including:

Digital goods

- Consumer goods such as books, music, video games, movies, television shows, etc.
- Downloadable applications

Digital services

- Transaction facilitation
- Social media
- Data
- Advertising
- Software as a Service (SaaS)
- Infrastructure as a Service (IaaS)

- Platform as a Service (PaaS)
- Enterprise as a Service (EaaS)

Staying current means taking into consideration:

- Developing technologies being deployed in a multitude of different ways
- Disconnects between operations and tax
- Unsettled state positions regarding sales and use tax characterization, taxability and sourcing
- Limited availability and applicability of multiple points of use rules to relieve multiple taxation
- Risk that use tax credit for sales tax paid to other states will not apply due to differences in sourcing provisions

Nexus and the middle market

As the definition of nexus is broadened in reaction to lost sales tax revenue, middle market companies are especially at risk.

It is no longer enough for companies to answer the traditional nexus qualifying questions: Where are your facilities? Where are your employees?

Now states want to know: Where are your customers? Where are your services delivered or consumed?

In addition, you must determine the nexus attribution of the activities of:

- Agents
- Independent contractors
- Related parties
- Unrelated affiliates

The above complexities can create risk that the proper sales tax is not being collected by the seller or use tax paid by the consumer.

States may impose penalties and interest, and even criminal sanctions, in cases where a tax is collected but not properly remitted. Further, business owners may be held personally liable for missed sales and use tax compliance. More globally, such errors can cause reputational damage or a competitive disadvantage. It is time for businesses to take a hard look at taxation of digital transactions and make a good-faith effort to get it right. That is where RSM can help.

Analyze, identify, advise

At RSM, our sales and use tax specialists have a comprehensive understanding of the evolution of the taxation of digital goods and services. Our process, experience and service tools provide the context for your business to assess overall risk related to collecting and remitting these complicated transaction taxes.

We will analyze the digital goods and services your business buys and sells to determine the proper characterization under current guidance, determine the digital footprint of your business, and identify which states are likely to seek sales and use tax related to your digital transactions.

In addition to helping you determine your compliance requirements, our sales and use tax on digital goods and services specialty team can advise your tax team on process improvements to make these new requirements easier for your team to manage. Where desired, we can provide co-sourcing or outsourcing support, either through a learning period or in an ongoing capacity.

With an RSM sales and use tax on digital goods and services analysis, your business can benefit from the best practices specific to your digital transaction profile.

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