



# Sales and Use Tax on Data or Information Technology Services and Software Publishing Services: Questions and Answers

Section 4 of Chapter 604 of the Acts of 2025, effective July 1, 2025, expands the definition of services subject to the sales and use tax to include data services, information technology services, system software publishing services, and application software publishing services described in the 2022 edition of North American Industrial Classification System (NAICS), United States Manual, under sectors 518 and 519 and subsectors 5132 and 5415. NAICS subsector 5132 includes software publishing services and NAICS sectors 518 and 519, and subsector 5415 include, respectively, (1) computing infrastructure providers, data processing, web hosting, and related services; (2) web search portals, libraries, archives, and other information services; and (3) computer systems design and related services. The law imposes a 3.0% sales and use tax rate on a sale of these services. The questions and answers below provide additional information on the application and administration of the new taxable services.

## I. Applicability

### A. General

#### 1. What are the new taxable services?

Effective July 1, 2025, sales of a data or information technology service described under NAICS sectors 518 or 519, or subsector 5415, and a system software or application software publish services described under NAICS subsector 5132 are subject to sales and use tax at a rate of 3%. A list of services described under these codes is found in Section IV. of this document.

#### 2. Are data or information technology services and software publishing services taxable based on the NAICS code of the vendor, contract solicitation, or based on the NAICS code of the individual service being purchased?

The classification that a business reports as their primary business activity code for federal and state income tax purposes is not determinative of whether sales and use tax is imposed on sales of services by the business. Instead, a business must compare the services it provides to the NAICS activity descriptions for data or information technology services and software publishing defined by Maryland law as taxable services to determine taxability.

Maryland law employs the business activity descriptions for NAICS sectors 518 and 519, and subsectors 5415 and 5132 to define the data or information technology services and software publishing services subject to the Maryland

sales and use tax. A business that has chosen a classification other than 518, 519, 5415, or 5132, but which sells a service described by those codes is required to collect and remit sales and use tax on the sale.

For example, NAICS code 513210 describes an industry comprising establishments primarily engaged in software publishing. For Maryland sales and use tax purposes, the sale of software publishing services are subject to 3% sales and use tax, even if the seller has chosen a different NAICS code to describe its primary business activity.

Similarly, a contract that indicates a certain NAICS code for procurement purposes is not determinative of the taxability of each service provided under the contract for the purposes of Maryland sales and use tax. A sale of a service is taxable if it is included in the business activities described in NAICS sector 518 or 519, or subsector 5415 or 5132, regardless of any NAICS code identified in a procurement or solicitation.

**3. How does a vendor determine whether a particular data or information technology service or software publishing service is subject to the sales and use tax?**

Each service a vendor provides must be evaluated individually to determine its taxability. The list of data or information technology services and software publishing services subject to the 3% sales and use tax is listed in Section IV of this document. The Comptroller's Office has also submitted the list of services to be published in the Code of Maryland Regulations ("COMAR") as regulation 03.06.01.48. The vendor must use industry standards and common definitions in its analysis.

**4. Does the 3% sales and use tax imposed on data or information technology services and software publishing services apply to services performed by an internal services company for a charge to its other affiliated company members? What if the services are provided at cost?**

The sales and use tax applies to all retail sales unless an exemption applies, whether or not the seller makes any profit from the sale. There is no exemption for sales made to affiliated company members. The 3% rate applies to the taxable price of the service.

**B. Software as a service ("SaaS")**

**5. Is SaaS a digital product or a taxable service?**

SaaS meets the definitions of both a digital product and a software publishing service.

**6. How is SaaS taxed?**

The definition of a digital product excludes computer software and SaaS purchased or licensed solely for the use in an enterprise computer system, including operating programs or application software for the exclusive use of the enterprise software system, that is housed or maintained by the purchaser or on a cloud server, whether hosted by the purchaser, the software vendor, or a third party.

SaaS that is not purchased or licensed solely for use in an enterprise

computer system, such as a purchase for use by an individual, is a digital product and is therefore subject to taxation at the 6% rate. To the extent that SaaS is a taxable service, its sale for use for commercial purposes in an enterprise computer system is subject to sales and use tax at the 3% rate.

Maryland law requires that if a different rate can be applied to a sale or use of a digital product or a taxable service, the higher rate must be applied. To the extent that a sale of SaaS meets the definition of both a digital product and a taxable service when it is sold for use other than in an enterprise computer system, it is taxed at the higher rate. This means that SaaS sold for individual use is taxed at the 6% rate, and the same SaaS is taxed at the 3% rate when sold for use in an enterprise computer system.

**7. Is software or SaaS that is customized, configured, or modified and does not operate immediately as required by the buyer (i.e. “customized out of the box”) exempt from the sales and use tax applied to digital products?**

No. The exemption from the sales and use tax for customized software or SaaS is repealed effective July 1, 2025.

## **II. Timing matters**

### **A. Subscriptions, installment sales, and credit sales**

**8. What is a subscription?**

A subscription is an arrangement with a vendor that grants a buyer the right to obtain products or services within one or more categories having the same tax treatment, in a fixed quantity or for a fixed period of time or both. An example of a subscription is a contract that requires a monthly payment in exchange for access to a service for a one-month period, and is renewable on a monthly basis.

**9. What is an installment sale?**

An installment sale is a sale of a product or service where there is an agreed-to total price that is paid in smaller, fixed amounts over a period of time. In an installment sale, the vendor receives at least one payment after the sale occurs. An installment sale includes a contract that provides for one or more “milestone” payments upon the vendor’s delivery of a product or service that is one of multiple deliverables required by the contract. An installment contract may also provide for regular periodic payments (e.g., monthly, quarterly, or annually).

**10. What is a credit sale?**

A credit sale is a sale in which the seller permits the buyer to make payment for the sale on or before a certain date after the sale occurs instead of requiring payment in full at the time of sale. In a credit sale, the seller sets the time of payment, as well as whether payment must be made in full or in increments on a set schedule, or whether a buyer may have a revolving line of credit.

### **B. Subscriptions for digital or information technology services and software publishing services purchased prior to July 1, 2025.**

- 11. A subscription for a data or information technology service e.g., cloud storage services,<sup>1</sup> is initially purchased prior to July 1, 2025. A subscription fee is paid monthly and can be canceled at any time. Is the subscription fee paid on July 15, 2025, subject to the sales and use tax?**

Yes. Each subscription payment is considered a separate sale for the purpose of determining when the tax is imposed. A subscription includes a license for use of data or information technology services or software publishing services.<sup>2,3</sup> The subscription payment due on July 15, 2025, is a sale occurring on July 15, and is subject to sales and use tax.

- 12. A contract for data or information technology services or software publishing services entered into before July 1, 2025, automatically renews after July 1, 2025. Payment on the renewal is due after July 1, 2025. Is the renewed contract subject to the sales and use tax?**

Yes. An automatically renewing contract is in the nature of a subscription and is considered a separate sale for determining when the tax is to be collected or paid.

**C. Contracts for installment sales entered into prior to July 1, 2025.**

- 13. A contract for data or information technology services or software publishing services is entered into before July 1, 2025, and requires several payments, each due upon delivery of one or more specified services or milestones; services are provided over a period of time, some before July 1, 2025, and some after July 1, 2025.**

No sales and use tax is due on this transaction because the parties agreed on terms and executed the contract before July 1, 2025.

- 14. A contract for data or information technology services or software publishing services is entered into before July 1, 2025, and requires several payments, each due upon delivery of one or more specified services or milestones. At least one payment is due after July 1, 2025; all services are provided after July 1, 2025.**

No sales and use tax is due on this transaction because the parties agreed on terms and executed the contract before July 1, 2025.

- 15. A contract for data or information technology services or software publishing services is entered into before July 1, 2025. The contract contains an option for additional services at an additional price, and an option for additional years at a set price. After July 1, 2025, the buyer exercises the rights to the additional services and additional years. The services are delivered after July 1, 2025. The payment for the additional services and additional years is made after July 1, 2025. Is sales and use tax due on the sale of the additional services?**

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<sup>1</sup> As described in NAICS 518.

<sup>2</sup> COMAR 03.06.01.28A.

<sup>3</sup> COMAR 03.06.01.28B.

No sales and use tax is due when the buyer exercises the option. The sale of the additional services and additional years, though optional, are part of the original contract entered into prior to July 1, 2025.

- 16. A contract for data or information technology services or software publishing services is entered into before July 1, 2025. After July 15, 2025, the parties execute a change order to the contract, expanding the scope of taxable services beyond those originally contracted for. Payment for and delivery of the additional services occur after July 1, 2025. Is sales and use tax due on the sale of the additional services?**

Yes, sales and use tax is due when the parties execute this change order. The change order for additional services not described in the original contract is considered a new sale, even though it is effectuated by a change order to a contract entered into before July 1, 2025.

- 17. A vendor of data or information technology services or software publishing services enters into a contract with a buyer before July 1, 2025. The contract price is based on the vendor's anticipated costs of certain data or information technology services or software publishing services the vendor itself must purchase and use in order to perform its contractual obligations for the buyer. The data or information technology services are purchased by the vendor after July 1, 2025, and the services are used by the vendor to perform the services in the contract with buyer; they are not resold to the buyer. Are the data or information technology or software publishing services purchased by the vendor after July 1, 2025, subject to sales and use tax?**

Yes. The vendor must pay sales and use tax on the purchase of data or information technology services or software publishing services after July 1, 2025.

**D. Contracts for credit sales entered into prior to July 1, 2025.**

- 18. A contract for data or information technology services or software publishing services is entered into before July 1, 2025, and payment in full is made prior to July 1, 2025; services are provided over a period of time, some before July 1, 2025, and some after July 1, 2025. Are the services sold subject to the 3% sales and use tax?**

No sales and use tax is due on this transaction. Even though some services are performed after July 1, 2025, the sale was completed prior to July 1, 2025.

- 19. A contract for data or information technology services or software publishing services is entered into before July 1, 2025, and a single payment in full is made after July 1, 2025, in accordance with the terms of the contract; services are provided over a period of time, some before July 1, 2025, and some after July 1, 2025. Are the services sold subject to the 3% sales and use tax?**

No sales and use tax is due on this transaction. Even though payment was made after July 1, 2025, the sale on credit was completed prior to July 1, 2025.

- 20. A contract for data or information technology services or software publishing services is entered into before July 1, 2025, and a single payment will be made after July 1, 2025, in accordance with the contract; all services are provided after July 1, 2025. Are the services sold subject to the 3% sales and use tax?**

No sales and use tax is due on this transaction. Even though payment was made after July 1, 2025, and services were delivered after July 1, 2025, the contract was entered into prior to July 1, 2025.

### **III. Special Situations**

#### **A. Contracting with entities that are exempt from sales and use tax, including State and federal governments**

- 21. A prime contractor enters a contract with the federal government, an entity exempt from paying the sales and use tax, to deliver a design for a new submarine. The prime contractor purchases computer aided design (CAD) services from a subcontractor in order to deliver the design of the sub to the federal government. Is the prime contractor's purchase of the CAD services subject to the sales and use tax? Does the resale exemption apply?**

The purchase of the CAD services from the subcontractor is subject to the 3% sales and use tax. The resale exemption does not apply because the prime contractor is not reselling the taxable services in their original form. The prime contractor is the end user of the CAD services, so the subcontractor should charge sales and use tax on this sale.

- 22. Does the resale exemption, or any other exemption under current law exempt the services that prime contractors and subcontractors provide to end users?**

The resale exemption applies to taxable services if the taxable service is in the same form when resold by the buyer as it was when purchased by the buyer, and has not been used by the buyer. Use of a service includes a use to fulfill the obligations of a contract.

For example, a web hosting provider could purchase cloud storage tax-free from a cloud storage provider to offer cloud storage for sale to its customers by providing the cloud storage provider with a resale certificate. However, if the web hosting provider uses the cloud storage itself to provide some other service to its customers, the purchase is not exempt.

- 23. A prime contractor purchases a data or information technology service or a software publishing service. The service will be used by the prime contractor to deliver data or information technology services or software publishing services in the course of performing contracted services for an entity that is exempt from sales and use tax. For example, a prime contractor purchases cloud storage that will be used by the prime contractor during the contract period. Is the prime contractor's purchase subject to the sales and use tax?**

Yes. The contractor is the end-user of the cloud storage, and the contractor is not exempt from paying sales and use tax.

- 24. A prime contractor enters into a contract with the federal government before July 1, 2025. The contract price is based on the anticipated costs to the prime contractor for data or information technology services or software publishing services the prime contractor itself must purchase and use in order to fulfil its contract with the federal government. The data or information technology services purchased by the prime contractor will not be resold to the federal government in their original form; they will be used by the prime contractor to perform the services in the contract with federal government. The prime contractor purchases the data or information technology or software publishing services after July 1, 2025, and uses the services to perform its obligations under the contract with the federal government. Are the data or information technology or software publishing services purchased by the prime contractor subject to sales and use tax?**

Yes. The prime contractor must pay sales and use tax on the purchase of data or information technology services or software publishing services after July 1, 2025. Due to the newly imposed 3% sales and use tax on data or information technology services or software publishing services, the prime contractor's cost of performance will go up.

- 25. A prime contractor has a contract with the federal government, but is not permitted to act as an agent of the federal government. Can the prime contractor use the federal government's sales and use tax exemption to make tax-free purchases on behalf of the federal government?**

No. A prime contractor may not use their customer's sales and use tax exemption to make purchases.

- 26. Before July 1, 2025, a subcontractor enters a contract to deliver data or information technology services or software publishing services to a prime contractor, which itself sells data or information technology services or software publishing services to a sales and use tax exempt entity such as the federal government. The subcontractor's contract with the prime contractor prohibits the subcontractor from charging the prime contractor sales and use tax. Since the subcontractor is contractually prohibited from collecting sales and use tax from the prime contractor, does the subcontractor have to remit sales and use tax?**

Yes. Sales and use tax is due on the transaction. A contractual agreement between the buyer and the seller does not change the taxability of the transaction. The subcontractor/seller must absorb the sales and use tax and remit the tax due on the transaction, regardless of whether it was collected from the buyer.

## **B. Exemptions**

- 27. What sales and use tax exemptions apply to the sale of data or information technology services or software publishing services?**

In addition to existing sales and use tax exemptions, certain exemptions apply only to the sale of data or information technology services or software

publishing services.

The following sales of data services, information technology services, system software publishing services, or application software publishing services are not subject to the Maryland sales and use tax:

- a. A sale of cloud computing to a qualified cyber security business. A “qualified cybersecurity business” is a for-profit entity engaged primarily in the development of innovative, proprietary cybersecurity technology or the provision of cybersecurity services.
- b. A sale to a qualified company located in the University of Maryland’s Discovery District in Prince George’s County made in connection with the work of the company. A “qualified company” is a company that contracts with the University of Maryland’s Applied Research Laboratory for Intelligence and Security to develop systems and technologies to advance the use of quantum computers.
- c. A sale by a qualified company located in the University of Maryland’s Discovery District in Prince George’s County.

A buyer claiming an exemption must retain all documentation substantiating its qualification for the exemption.

### **C. Multiple points of use certificates**

#### **28. What is a Multiple Points of Use Certificate and how is it used?**

If a buyer knows, at the time of purchase, that a digital code, digital product, taxable data service, taxable information technology service, or taxable software publishing service will be used concurrently by the buyer both inside Maryland and outside of Maryland, or if it will be resold in its original form to a member of an affiliated group or a related pass-through entity of which the buyer is a member, the buyer may present the vendor with a multiple points of use (“MPU”) certificate at the time of sale. The MPU certificate relieves the seller of the obligation to collect and remit the sales and use tax, shifting that obligation to the buyer.

#### **29. Do I need a separate MPU certificate for each transaction?**

Yes. Each MPU certificate must report the allocation of use in Maryland for that particular sale.

#### **30. What must a buyer do to issue an MPU certificate?**

In order to issue an MPU certificate, a buyer must have a sales and use tax account. The buyer must apply to the Comptroller’s Office for authorization to issue an MPU certificate for each transaction for which the buyer wishes to provide the seller an MPU certificate.

#### **31. How will a vendor verify an MPU certificate?**

A vendor must follow the instructions on the MPU certificate to verify its authenticity. Until further notice, a vendor should complete the verification as follows:

- Visit [www.mdtaxconnect.gov](http://www.mdtaxconnect.gov) and click on “Verify Sales and Use Tax



Registration or Exemption” in the License/Permit Search section, or click here to go directly to the verification page: [Verify Sales and Use Tax Registration or Exemption](#).

- Select “CENTRAL REGISTRATION NUMBER” in the ID Type box.
- Enter the buyer’s 8-digit central registration number from the MPU certificate in the ID Value box.
- Verify you are not a robot, and then click on the “Search” button.
- If the application confirms the buyer’s registration status is “valid,” the vendor may accept the MPU certificate.

Note: the Comptroller’s Office will update these instructions once an automated certificate-specific validation tool is available.

**32. What are some examples of a “reasonable method of apportionment” for determining the apportioned use of the taxable services in Maryland?**

Reasonable methods of apportionment include: The number of employees using the digital product, digital code, or data or information technology service or software publishing service in Maryland divided by the total number of employees using the digital product, digital code, or data or information technology service or software publishing service; or

The number of licenses for use of the digital product, digital code, or data or information technology service or software publishing service in Maryland divided by the total number of licenses for use of the digital product, digital code, or data or information technology service or software publishing service.

A buyer’s method of apportionment must be consistent and uniform.

**33. Is the buyer required to use an MPU certificate if they are using the digital product, digital code, or data or information technology service or software publishing service in multiple jurisdictions?**

No. The buyer always has the option to pay sales and use tax on the entire purchase price.

**34. When must a vendor refuse to accept an MPU certificate?**

A vendor must refuse to accept an MPU certificate if they know or should know that the digital product, digital code, or data or information technology service or software publishing service will be used entirely in Maryland.

**35. Is there a minimum or maximum apportionment to Maryland required to use an MPU certificate?**

No. A buyer of a digital product, digital code, or data or information technology service or software publishing service may issue a vendor an MPU certificate indicating any reasonable apportionment that is determined in a consistent and uniform manner, as long as there will be a use of the service both inside and outside of Maryland.

#### IV. Description of services subject to 3% sales and use tax rate

##### A. Services described under NAICS sector 518

|                                                                                           |                                                       |
|-------------------------------------------------------------------------------------------|-------------------------------------------------------|
| Application hosting (excluding software publishing)                                       | Disk and diskette conversion                          |
| Automated data processing                                                                 | Disk and diskette recertification                     |
| Cloud computing (except software publishing and computer systems design)                  | Electronic data processing                            |
| Cloud storage                                                                             | Game server hosting                                   |
| Co-location in data centers (i.e., rental of server and networking space in data centers) | Infrastructure as a service (IaaS)                    |
| Computer data storage                                                                     | Media streaming data storage                          |
| Computer input preparation                                                                | Media streaming technical support                     |
| Computer time leasing                                                                     | Microfiche recording and imaging                      |
| Computer time rental                                                                      | Microfilm recording and imaging                       |
| Computer time sharing                                                                     | Optical scanning                                      |
| Computing infrastructure provision                                                        | Platform as a service (PaaS)                          |
| Computing platform infrastructure provision                                               | Video and audio technical streaming support           |
| Data capture imaging                                                                      | Video tape and film stock technical streaming support |
| Data entry                                                                                | Virtual currency (cryptocurrency) mining              |
| Data processing computer services                                                         | Web hosting (excluding software publishing)           |
| Data processing (except payroll services, financial transaction processing services)      |                                                       |

##### B. Services described under NAICS sector 519

|                                                                                         |                                               |
|-----------------------------------------------------------------------------------------|-----------------------------------------------|
| Archives                                                                                | Motion picture film libraries                 |
| Bookmobiles                                                                             | Music archives                                |
| Centers for documentation (i.e., archives)                                              | News clipping services                        |
| Circulating libraries                                                                   | Press clipping services                       |
| Film archives                                                                           | Provision of stock photos                     |
| Internet search portals                                                                 | Reference libraries                           |
| Internet search websites                                                                | Telephone-based recorded information services |
| Lending libraries                                                                       | Title search services (except real estate)    |
| Libraries (except motion picture stock footage, motion picture commercial distribution) | Web search portals                            |

##### C. Services described under NAICS subsector 5415

|                                                                         |                                                                                              |
|-------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|
| Audio visual and IT (information technology) systems integration design | Custom computer software analysis and design                                                 |
| CAD (computer-aided design) systems integration design                  | Custom computer software support                                                             |
| CAE (computer-aided engineering) systems integration design             | Custom search engine optimization (SEO) (except hosting and infrastructure support services) |
| CAM (computer-aided manufacturing) systems integration design           | Custom software programming                                                                  |
| Computer disaster recovery                                              | Custom webpage design services                                                               |
| Computer hardware consulting                                            | Data processing facilities (i.e., client's facilities) management and operation              |
| Computer network systems integration design                             | Industrial robot automation applications/software                                            |

|                                                                                  |                                                                      |
|----------------------------------------------------------------------------------|----------------------------------------------------------------------|
|                                                                                  | design and development                                               |
| Computer software consulting                                                     | Industrial robot programming                                         |
| Computer systems integration analysis and design                                 | Information management computer systems integration design           |
| Computer systems integration design consulting                                   | Local area network (LAN) computer system integration design          |
| Computer systems integrator                                                      | Machine vision software design and development                       |
| Computer software installation                                                   | Material handling robot applications/software design and development |
| Computer systems facilities (i.e., client's facilities) management and operation | Office automation computer systems integration design                |
| Custom computer application software programming                                 | Robotics applications/software design and development                |
| Custom computer program or software development                                  | Robotics process automation software design and development          |
| Custom computer programming services                                             | Welding robot applications/software design and development           |

#### **D. Services described under NAICS subsector 5132**

|                                                                           |                                                                |
|---------------------------------------------------------------------------|----------------------------------------------------------------|
| Applications development and publishing (except on a custom basis)        | Packaged computer software publishing                          |
| Computer software publishing and reproduction                             | Packaged computer utility software                             |
| Gaming site publishing                                                    | Packaged programming language and compiler software publishing |
| Mobile applications development and publishing (except on a custom basis) | Packaged software publishing                                   |
| Packaged computer applications software                                   | Publishing computer software for games                         |
| Packaged computer operating systems software                              | Software publishing                                            |

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