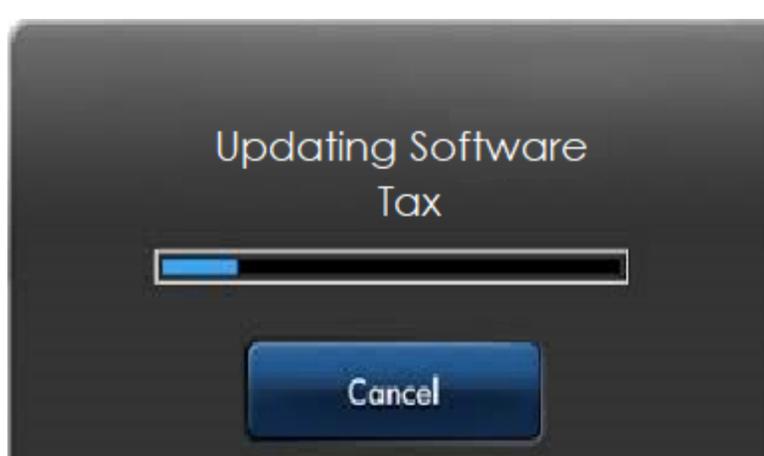




THE TAXABILITY OF SOFTWARE CAN WEAR YOU DOWN



Software is prominent in today's world. Just to read this newsletter you're using software. It's everywhere. But it wasn't prominent when most sales tax law was written and that's an issue. Trying to fit the definition of software into a pre-internet world tax code is like trying to fit a square peg into something even worse than a round hole. The states are catching up though and issuing a lot of guidance about what software is, the taxability of different types of software and whether certain services are actually the sale of software.

The definition of software in many states is usually something along the lines of a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task. That's Georgia's definition. But some states, like Maryland, don't even have a formal definition of software in their tax code.

Knowing this information, here's a few helpful hints to understand the taxability of software:

1. Call Sales Tax Defense LLC because we can help you!
2. Understand that what you believe you're selling and what you are selling as defined by the tax law are often two different things. For example, "software as a service" is not defined under the tax law in many states. If you operate in one of those states, what are you selling then?
3. There is usually a difference between prewritten software (aka canned software) and custom software. Sometimes combining two pieces of prewritten software does not qualify as custom software.
4. In certain states, there are situations where you can be selling taxable prewritten software but a separately stated charge for customizations to that software are not subject to tax.
5. Seriously, call Sales Tax Defense because we can help you!
6. If you host software that customers access through the internet, there is often specific information or documentation that must be maintained to prove that customer is located in a different state.
7. There are often very specific rules relating to software sold via the "load-and-leave" method – both for taxability purposes AND for nexus purposes.
8. **SHOCKER SPECIAL:** If your customers access software electronically and you pay a third party to host that software, it might create nexus with a state. That means you might owe tax in a state that you didn't realize you had any connection with.

Someone once said that a computer programmer is a machine that turns coffee into code. If you sell software, let us be the machine that turns your tax problem into... well... not a tax problem!

SALES TAX DEFENSE GETS ANOTHER "NO CHANGE"



ABOUT OUR FIRM





In the world of sales tax, there are many kinds of exemption certificates that make the sales side of the transaction and/or the purchase side of the transaction exempt. An example of some of these certificates are Exempt Organization Exempt Purchase Certificates, Certificates of Capital Improvement and Contractor Exempt Purchase Certificates.

While all these certificates cover the same types of items, there is one type of exemption that changes depending on the specifics of the agreement. These are items that are exempt through Industrial Development Agency Agreements which are better known as IDA Agreements.

A client of Sales Tax Defense had thousands of items covered under their IDA Agreement. However, since the IDA is a written agreement, a lot of the items are usually open to interpretation which can make the argument that the items are exempt much more difficult. Tax Defense sat with the auditor to get thousands of items removed from the exceptions list. However, there were still two additional items that the Department insisted were taxable. After several phone calls with the section head, it ultimately took an in-person meeting for the Department to agree that these last remaining items were covered under the IDA.

This audit resulted in a no change!

We are a dedicated team of sales and use tax professionals who have committed our careers to helping businesses and fellow professionals with sales and use tax problems.

Since the only work we are focused on is sales tax consulting, businesses never have to be concerned that we will try to sell them other services they do not need. And professionals never have to be concerned with us encroaching on their client relationships, because we view you, our fellow professional, as our client.

WHEN YOU HAVE A SALES TAX PROBLEM, *WE ARE THE SOLUTION!*

CALL: **631-491-1500**

CONTACT US!

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"Thank you so much for everything. I'm grateful for your help and guidance and will refer you like crazy."

-Deborah, Business Owner

MORE TESTIMONIALS

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