

State of Rhode Island - Division of Taxation

Sales and Use Tax

Regulation SU 94-25

Computers and Related Systems

1. Computer "hardware" is defined as the machine and all of its components. Computer "software" is the programming needed to make computers operate.
2. The sale to a consumer of a computer and its related components is taxable when delivered to a customer in this state. The rental of a computer and its related components, including terminal equipment (hardware) which is physically located in this state, is taxable.
3. When computers are accessed by customers through terminal devices which are connected to the computer, each customer is in effect using a portion of the computer. A customer is able to compile programs, provide a variety of computations, have computational results printed out on a terminal and keep data stored within the computer file for future use. This produces basically the same results as if the customer had processed the same data on the customer's own computer; i.e., the customer performs the tasks of entering data into the computer and all processing is accomplished under his/her control. The charge for such use of the computer may include, among other things:
 - a. average amount of computer storage used,
 - b. computations performed by the computer,
 - c. time connected to the computer.

The above is sometimes referred to as "Time-Sharing Plan" and such charges are the rental of the computer, not service charges, and are taxable when the computer is physically located in this state. When the computer is located outside this state, the rental of the computer is not taxable. The charge made for any terminal device located in this state is taxable.

4. Canned programs are programs prepared, held, or existing for general or repeated use, including programs developed for in-house use and subsequently held or offered for sale or lease.

Canned programs which include such items as instructional material, pre-punched cards or programmed tapes are tangible personal property and the entire charge is taxable, including the services of a technician to assist the customer in the use of the package whether or not his services are separately stated on the billing.

The licensing of canned software is a lease or rental and is subject to tax along with any services pertaining thereto. (Cross Reference Regulation SU 92-62)

5. Custom programs are programs created specifically for one user and prepared to the special order of that user. Such programs are exempt including any services incidental thereto and any

modifications made to said programs for a particular user. Custom programs are not subject to tax regardless of the manner or mode of transfer to the customer since the charge for the custom program is a charge for professional services and the manner or mode of transfer is considered incidental to the sale of the service.

6. When a Service Bureau performs a bookkeeping service for a client, such as keeping a set of records and the furnishing of financial statements, payrolls, tax reports, accounts receivable and accounts payable statements, etc., the charge is for a professional service and is exempt.

7. Equipment, materials and supplies purchased, leased or rented for use in providing nontaxable services are taxable to the person providing the service. The tax exempt status of the customer is not passed through to the person providing the services.

8. Data entry cards, tapes and disks are tangible personal property and the entire selling price including any services that are a part of the sale is taxable. The charge made for data entry on such media furnished by the customer is a processing charge and is taxable.

9. Subleasing receipts are taxable without any deduction or credit for tax paid by the original lessee to his lessor, if the original lessee uses the property in addition to subleasing it. A resale certificate for a portion of a lease or rental period may not be given if the person who is leasing such equipment makes a taxable use thereof during such period.

R. GARY CLARK
TAX ADMINISTRATOR

DATE: JANUARY 1, 1994

THIS REGULATION AMENDS AND SUPERCEDES REGULATION SU 92-25
PROMULGATED JANUARY 1, 1993.