

NEBRASKA SALES AND USE TAX GUIDE FOR COMPUTER SOFTWARE

OVERVIEW

The gross receipts from the sale, rental, lease, license, or transfer of prewritten or custom computer software is subject to tax regardless of the method of delivery to the purchaser. In addition, training on the use of computer software is taxable if sold by the seller of the software. The sale of maintenance or service contracts and charges for installing computer software are taxable, whether performed by the retailer or by a third party.

All retailers of computer software must obtain a Nebraska Sales Tax Permit (see “General Information” section below).

This information guide is intended to provide an overview. Nothing in this guide supersedes, alters, or otherwise changes any provisions of the Nebraska tax code, regulations, Nebraska Department of Revenue (Department) rulings, or court decisions.



This information guide may change with updated information or added examples. The Department recommends you do not print this guide. Instead, sign up for the subscription service at revenue.nebraska.gov to get updates on your topics of interest.

TERMS

Cloud Computing. Services which allow customers to access and use computer software, servers, operating systems, databases, and other computing resources via the Internet. Cloud computing includes services known as Software as a Service (SaaS), Platform as a Service (PaaS), and Infrastructure as a Service (IaaS).

Computer Software. Computer software is a sequence of instructions which directs the computer to process either digital or analog data. The term includes software which is designed and developed to the specifications of a particular purchaser (custom software), and software which is not designed and developed to the specifications of a particular purchaser (prewritten software).

Delivered Electronically. Delivered electronically means delivery to the purchaser by means other than a tangible storage medium.

Help Desk Support. Help desk support is a service provided where advice is given over the telephone or via email to assist the user of computer software in using the various features or functions of the software. Help desk support does not include providing updates or modifications to software.

Installation. Installation is the service of setting up, implementing, deploying, or configuring computer software.

Load and Leave. Load and leave is the method of delivering software to the purchaser using a tangible storage medium where the medium is not physically transferred to the purchaser.

Service or Maintenance Contract. A service or maintenance contract is a contract that obligates a retailer to provide a customer with future enhancements, changes, modifications, updates, or upgrades to computer software. This term includes contracts which are mandatory, where the customer is obligated to purchase the contract as a condition of the retail sale of computer software, and contracts which are optional.

Tangible Storage Medium. A tangible storage medium is a device that holds digital information, processes digital information, or both. Examples include thumb drives, flash drives, or disks.

TAXABLE SALES

Computer Software

The gross receipts from transferring computer software in this state are taxable, regardless of the method of delivery. This includes the sale, rental, lease, license, or transfer of computer software, whether characterized as a software subscription, software license fee, royalty payment, or software franchise fee, for the use of the software. The software may be transferred to the customer by any means, including:

- ❖ CD;
- ❖ Electronic delivery;
- ❖ Internet download;
- ❖ Load and leave; or
- ❖ Tape.

Taxable gross receipts from the transfer of computer software **include services provided by a consultant** that are a part of the transfer of computer software from the author, other developer, or retailer of the software to the customer. Examples include, but are not limited to:

- ❖ Coding, programming, and program development;
- ❖ Software customization, testing of programs, and upgrading programs;
- ❖ Software planning and design; and
- ❖ Systems analysis and diagnostic work.

Charges by consultants for travel, meals, and other incidental expenses are also part of the “gross receipts” from transferring computer software, and are taxable.

Payments for personal services that result in the transfer or production of computer software by programmers or consultants are taxable, unless it can be shown that the payments are wages of an employee (temporary or permanent) who writes computer software. Refer to [Revenue Ruling 01-02-01](#), for information on the distinction between purchasing software and hiring employees.

Service or Maintenance Contracts

Sales tax applies to the gross receipts from the sale of all service or maintenance contracts covering computer software. Sales of the contracts are taxable whether sold by the retailer of the software or by a third party. Renewals of service or maintenance contracts are also taxable.

Installation and Delivery of Computer Software

Charges for installing computer software are taxable and include services characterized as implementation, deployment, setup, or configuration. Installation includes providing software patches or security updates for virus protection. Installation and delivery provided by the retailer of the software are taxable even if software is provided at no cost to the customer. Charges to reinstall existing software are not taxable.

Access Codes for Specific Video Games

The sale of an access code which permits the purchaser to download a specific video game or video game add-on to a gaming computer server, gaming console, or mobile device is subject to tax. The video game is considered prewritten computer software. The access code may be transferred to the purchaser on tangible media, such as a plastic card or paper receipt, or transferred electronically. When the purchaser uses the code to download the specific video game, no sales tax is charged by the seller of the game.

Security Services

Taxable security services include the testing, monitoring, and protection of computer systems against unauthorized access or intrusion. Refer to [Reg-1-101](#).

Training

Charges for computer software training are taxable if the training is provided in Nebraska by the retailer of the software. In addition, training provided by the retailer of the software via the Internet is taxable when the person receiving the training is located in Nebraska.

Charges for computer software training are **not** taxable when provided by a party that is unrelated to the retailer of the software.

EXEMPT SALES

Cloud Computing Services

Charges for services which allow customers to remotely access software applications, operating systems, servers, and other network components via the Internet or other online connections are not taxable. This is true regardless of whether the software, hardware, or network components are located in Nebraska or outside the state. The service provider is responsible, however, for paying sales or use tax on its purchases of software, hardware, and network components if these items are used in Nebraska.

Access Codes for Video Gaming

The sale of access codes which allow the purchaser to access video games maintained on a remote server are not subject to tax.

Help Desk Support

Charges for help desk support services, provided separately from a service or maintenance contract, are not subject to tax as long as no software enhancements, changes, modifications, updates, or upgrades are provided. This includes services described as trouble-shooting or telephone support services.

Example 1. A customer calls for help desk support because the computer is “frozen.” The technician explains the procedure to return the computer to normal operating condition. This represents an exempt service.

Website Development and Hosting

Charges for developing and maintaining websites are not taxable unless the websites are transferred to the customer on a tangible storage medium. If a website is retained by the developer for hosting, or transferred electronically to the customer or a third party host, the charges are not taxable.

Charges for developing websites are not considered the sale of computer software even though the websites may contain embedded programming (scripts) that may be executed by the viewer’s browser to perform functions (downloading files or interacting with other software applications on another computer). Separately stated charges for hosting the website are not taxable.

Sales to Exempt Entities

Sales of computer software to exempt entities listed in [Reg-1-012](#), are tax exempt if the retailer receives a fully completed [Nebraska Resale or Exempt Sale Certificate, Form 13](#), with Section B completed. Most nonprofit organizations and some governmental units are not exempt.

OTHER SALES INFORMATION

Bundled Transactions

When computer software and nontaxable products (optional telephone support services) are sold for one nonitemized price, the entire amount is subject to tax if the computer software is more than 10% of the total selling price. Retailers must separately itemize the selling price of nontaxable products in order to sell the products tax exempt.

Any travel and meal charges can be prorated between the separately itemized selling prices of the products and taxed the same manner as the individual products.

Sourcing the Sale

The sale of software, installation, and any related maintenance agreements are sourced where the products are delivered to the customer. In some cases, software is delivered electronically and the retailer has no information as to the location where the software is electronically delivered. In this event, the retailer should source the sale to the address of the purchaser available from the retailer’s business records (an address on a payment document or purchase order).

Direct Pay Permits

Retailers do not collect tax on sales made to companies who have provided the retailer with a Nebraska [Direct Payment Permit](#). Retailers must keep a copy of the Direct Payment Permit in their records.

PURCHASES

Retailers of computer software are the consumers of equipment, furniture, supplies, and services used in their normal course of business. They must pay sales or use tax at the time they purchase these items and services. See [Reg-1-007](#), for a list of taxable services. If the retailer does not collect the state or local sales tax, the purchaser is responsible for remitting the applicable state and local use tax on the cost of the property purchased.

Resale of Software

Software may be purchased for resale if a specific number of licenses or copies of software are purchased for transfer to the customer, or if all of the rights to the software are transferred to the customer and none are retained.

USE TAX

If the retailer of the computer software or other taxable service does not collect sales tax on the gross receipts from the sale, then use tax is due from the purchaser.

Use tax is a complement to the state and local sales tax. Use tax is due **only** if the state and/or local sales tax was not paid to the retailer. It is imposed at the same rate and on the same transactions as sales tax. If the local sales tax is not properly paid on the original purchase, the local use tax is owed (see our [Nebraska Use Tax Information Guide](#)).

GENERAL INFORMATION

Obtaining a Permit. A Nebraska Sales Tax Permit is obtained by completing a [Nebraska Tax Application, Form 20](#), and returning it to the Department.

Remitting the Tax. Sales tax collected from customers is remitted on the [Nebraska and Local Sales and Use Tax Return, Form 10](#). Use tax is also calculated and remitted on the Form 10.

RESOURCE LIST

Information Guides

- ❖ [Nebraska Use Tax](#)
- ❖ [State and Local Sales Tax](#)
- ❖ [Repair or Maintenance Services](#)

Revenue Rulings

- ❖ [Revenue Ruling 01-02-1, Charges for Personal Services that Result in the Providing or Production of Computer Software are Taxable Unless Certain Conditions are Met](#)
- ❖ [Revenue Ruling 01-10-2, Website Design, Development, and Hosting](#)

Nebraska Sales and Use Tax Regulations

- ❖ [Reg-1-007, Gross Receipts Defined](#)
- ❖ [Reg-1-088, Computer Software](#)
- ❖ [Reg-1-108, Bundled Transactions](#)

Statutes

- ❖ [Neb. Rev. Stat. § 77-2701.16\(3\), Gross receipts includes the furnishing of computer software](#)
- ❖ [Neb. Rev. Stat. § 77-2701.35, Sales price, defined](#)

Miscellaneous

- ❖ [Sales and Use Tax Frequently Asked Questions](#)

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