

Exhibit L

Compiled Responses to Intake Survey

1. What are your thoughts generally on the primary question of whether Mississippi should levy a sales or use tax on software that serves as a commercial business input?
a. How might this issue impact Mississippi from an economic competitiveness standpoint?
This is the most complex and negative idea on taxation I have ever heard. In today's advanced manufacturing environment, virtually every aspect of manufacturing operations is related to computerization and the supporting software therein. The term "commercial business input" is the most vague concept, as it relates to software I can ever imagine. Economic competitiveness will be negatively affected, either through the actual taxation or thru development of business / accounting practices and procedures to minimize the input.
The law should be definitive on what the Department of Revenue should be able to tax.
Any additional taxes would lessen Mississippi's economic competitiveness.
I don't think they should be taxed and it will be another burden on small business for our state.
Yes - if software in the cloud is taxed. This makes MS less competitive from LA who doesn't.
It will have a significant impact on companies that use redundant servers outside the state such as banks. As SAS or accessing your software outside the state has historically been non-taxable, it will create a tax increase that the legislature should address. It should not be done administratively.
In my opinion, I think that things are fine just the way they are.
I think taxing software is unavoidable evolution of our tax system as a whole that MS should embrace early. I suspect most, if not all, states will tax software at some level and MS taxation of software will therefore have limited impact on its economic competitiveness. With that said, MS could harm its competitiveness by trying to tax software by developing its methods to do so. Instead, MS should harmonize its approach to imposing sales and use tax on software with the approaches most commonly used by other states that tax same.
Levying a tax that aims towards Mississippi Realtors or thier service/softwarees could potentially cripple our competivness against non-resident service providers.
If an identical item were purchased in MS, a sales tax would be charged. Therefore, a tax should be charged in this case, as well.
It would not help MS competitiveness.
it seems that we already pay many providers of our software services, so why should we have to pay a tax on top of that. For many businesses, such as non profits or small businesses, we don't have the budgets to pay that kind of tax on every software service we use. It could be catastrophic to some negotiations with companies who are looking to do business with Mississippi. The overhead for business is already high.
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None
It should not. It will have a chilling effect as the government definition of "software" will not be able to keep pace with technology.
Many companies like community banks utilize third party providers which would increase our overall operating costs making us less competitive with larger regional/national banks which would not be taxed.
This could include utility plant or platforms. We oppose general taxation of business inputs.
Any increase in tax cost would drive away business.
It would certainly be a deciding factor on SaaS businesses working from MS. It would also increase the cost of operation for the business using the SaaS businesses as the cost would obviously trickle down to the consumer.

Wouldn't taxes be paid already by the provider??a.)More taxes on a business is never a good thing.
Not in favor. It penalizes the small business that have no leverage over what these software businesses charge. We have a tight budget and business software continues to make up a bigger and bigger piece of it. They will not reduce their fees because of the tax and take it out of their own pocket. They will add the tax on top and we will be hurt while they continue with their high margin business. It will probably force us to discontinue some support that will ultimately put us at greater risk of financial, operational, or physical harm (like discontinuing our security system).
I do not believe the law should change. This will bring an unnecessary tax burden on all taxpayers. Not all states place a tax on cloud computing software.
I agree MS should levy this tax. Its a forgone conclusion that other states will.
As the economy moves towards a digital age, more companies are able to locate anywhere in the world that has broadband access. Why invest millions/billions in broadband access for Mississippi when companies will not choose to locate in Mississippi if there are additional cost-of-business like taxes on software?? They aren't going to choose to locate here because we're first in the nation for education. Adding this tax will have a negative effect on Mississippi from an ED competitiveness perspective.
No. At a time when the State is cutting income tax and other taxes in efforts to be more competitive, this just adds to the costs of doing business in Mississippi.
Sales tax on software could greatly impact Mississippi's economic competitiveness, especially to regulated utilities, such as my company. Our competitors have multiple divisions across all fifty states, and would be able to purchase software in other states, then spread the cost of the software across their respective divisions in Mississippi.
Any new tax on business is a detriment to economic development, and we lag behind neighboring states already in some competitive areas.

2. Has your organization been able to quantify any potential increased operating costs that might have resulted from the Department's proposed amendment to its sales tax regulation on Computer Equipment, Software and Services?
In an advanced manufacturing environment with several multi-million machines that rely on operating systems that are continually and automatically updated, this law will require a unique and separate set of system to identify and track all software related activities. This will place an extremely large burden on small, high-tech businesses throughout the state. Items included are machine operating systems, manufacturing MRP systems, communications platforms, asset management systems, accounting systems, sales systems, customer service platforms, energy management systems, etc. etc. The identification of each of these costs in order to make an argument in this case would be over-burdensome. This should be a no-brainer and will result in a complex myriad of far-reaching unintended consequences.
Negligible
https://www.forbes.com/sites/davidundercoffler/2021/12/31/buckle-up--subscriptions-are-coming-for-your-cars-best-features/?sh=615da335310b
No
It would impact us but I have not determined the impact.

It will be an increase due most of our organization uses system wide software which some are cloud based. Resources (additional software and/ people) would be needed to determine the allocation of the MS based divisions
TBD
No.
No. I am a tax attorney and my services are not taxed. I am curious to see how my field is ultimately taxed. If I use a form assembly system to prepare a trust, will that service now be taxed? Will the imposition of the tax on the software, result in the imposition on the entire service similar to an installer? If I don't use a form assembly system and instead use a form my data bank, am I now "selling software" because I did not use my knowledge base to prepare the entire form? What is "software"?
No
Not at this time.
Costs not quantified but would increase due to software and services currently being entirely sourced to a non-taxing state.
We haven't narrowed the exact cost, but our MLS and our day to day operations for the association and all its members centers on technology using software and services. We would have to raise our costs to our members to access just basic programs if a tax is levied.
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No, it's insignificant.
Yes.
We have not calculated the effect but it would be significant as we have heavily invested in technology.
Yes
Not at this time
NO
Rough estimate
More costs with internal and external labor on revising the ERP tax engine automated process. It will also increase our day to day operating costs, as cloud computing services are widely utilized.
We have not attempted to quantify increased costs. As a matter of practice we ask any vendor selling us services to ensure that they are registered in MS and/or we self remit use tax.
minimal
Yes- Our organization could expect to experience an additional \$1500-\$2000 per year in taxes for all computer and online services, software subscriptions and computer equipment services.
Yes. We have assessed the potential impact to be between \$20,000 and \$30,000 per year.
We have not quantified the impact, but our members access internet-based software and services in every facet of their business. For independent contractor real estate agents, the impact will be a significant increase in the cost of doing business. Such a tax would have a significant impact on our Association's budget as well.

3. Does your organization have any industry-specific scenarios, services, or products that the Committee should consider addressing in detail as part of this process?
Cloud-based business management platforms that require maintenance fees to keep it up to date and, most importantly, secure. Machine operating systems that require regular maintenance fees to keep them up to date and secure. Softwares that requires continuous updates to change with external issues, opportunities, and threats.
No
https://www.forbes.com/sites/davidundercoffler/2021/12/31/buckle-up--subscriptions-are-coming-for-your-cars-best-features/?sh=615da335310b
Yes, point of sale systems for restaurants and other retail businesses, and related services such as payroll.
Single EMR, HR and ERP system used by entities in different states
If it is to be taxed SAS is one thing which many states tax. However, software your company purchases that is located outside Mississippi and only accessed via the internet is the main issue. If you purchase software and locate it on a server in MS it is fully taxable even though your employees access it out of state. If the software is located out of state (not in MS), then it could result in double taxation as MS did not provide for a credit for tax paid in other state.
no
See answer to number 2. Accounting and legal services aren't subject to sales tax. Would accounting and legal software now be subject to sales tax or would they likewise receive an exemption? Are my legal forms and spreadsheets software? When do I cross that line?
Franchise service and softwares Multiple Listing services and softwares provided to members.
A sales tax should be charged for on-line purchases if an effective method of collection is devised.
Not sure.
Real estate services, such as the MLS, lockbox services using software and apps are at the very center of our business.
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No
Our firm uses almost entirely distributed data platforms and SAAS applications. Our staffing software Bullhorn is extremely expensive and state taxes on top of that our out of state competitors would not have to pay would put us at competitive disadvantage.
Yes, community bank core software providers.
This could include utility plant or platforms. We oppose general taxation of business inputs.
No
We are consumers of SaaS products, not developers.
NO
Exclude ALL non-profit organizations from this legislation

n/a
Yes, we do sell infrastructure as a service to some customers so they will see an increase in their costs.
how will licenses be addressed in the tax plan? Say a company purchases a \$5K software program and it comes with 10 user licenses that have a subscription cost per year. How is that quantified?
What if a company needs to purchase a \$5K or \$50K software system for their business. They know that Mississippi will charge them a tax, so instead of purchasing it in Mississippi, they purchase it in Tennessee and host the software in Tennessee. Mississippi not only does not get that new tech-tax, they also lost the sales tax and location of an asset at the same time.
no
Yes. Cybersecurity software is becoming a necessity in all lines of business. In fact, you can not obtain cyber insurance without installing very costly cybersecurity software. This software alone will cost my company over \$500k over the course of the year. I would ask that the Committee consider exempting such software from sales tax.
This is a long list but not an exhaustive list -- for our members: Multiple Listing Service systems, remote access lock box systems, online systems to set showing appointments, online agent safety apps, online transaction management systems, data storage systems, online customer management databases, online marketing software, online software for producing competitive market analyses, online mapping technologies, online software utilized by appraisers to produce appraisals, loan closing management systems used by mortgage brokers, online standard forms software, and I'm sure there are others. For the Association, our member database, online registration for courses and events, e-commerce system, online courses offered through our real estate school, etc.

4. What practical issues does your organization experience when trying to distinguish between purchases or use of software and data, whether on an internal or third-party basis? Are there situations where those items are so interrelated that they cannot be specifically distinguished?
Software and data are interchangeable and cannot be separated. At it's core, it is impossible to segregate and track. This is similar to taxing core operating necessities that are extremely unique and interrelated at the same time. Deciding what portion of software is a commercial input and what portion is not is impossible. Physical assets are purchased that require unique operating and programming modules that "continuously" retrieve data from multiple local, external, national, and international sources.
I think whether it's an application downloaded to the computer, or if it's cloud based and accessed only via the internet.
How to determine the allocation per site or state when a single EMR, HR and ERP system used by entities in different states
If it is an enterprise license (no set number of seats) then allocation is an issue. The state may not agree on the method utilized.

None
As a tax attorney, I sell "knowledge" and my legal opinion of that knowledge. As much as I try, I don't remember ever law and fact I've ever gathered and frequently look things up on various free, paid, and internal databases of those different knowledges. If tax is imposed on my gaining the knowledge and then I turn around and push that tax to my client, am I going to then subject my entire opinion or bill to sales tax? Some of the form assembly systems pose the same problem. I subscribe to the system, but my client is the ultimate beneficiary of the system and the software. It begs the question as to whether professional services should be exempt from sales tax to begin with. That's a tax policy question probably best left for another day so assuming you leave these services exempt, shouldn't the software associated with those services also be exempt?
Any levied tax toward MLS service providers and partners will be passed along to our Realtor Industry professionals
Presently, separating the two for tax collection purchases is not effectively possible.
Possibly.
we have to use another company's software to make our data systems work so in most cases, we purchase subscriptions or have contracts with the providers. We do not have an IT dept or IT person who can troubleshoot our own software programs so it is not an option. Our services and those provided by the software vendors are all interconnected and cannot be distinguished.
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1. None. 2. No.
Yes.
Given our size and unique industry, we rely on third party providers.
Distinguishing Software as a Service from Data services can be difficult.
We try to avoid using SaaS products for "production" systems. This way an unavoidable issue with our ISP services cannot create a revenue issue.
I don't know how we could track the differences in our industry. Most of the things we use except accounting software(and I think it is taxed as well) are already being taxed.
It can be difficult. Payroll Processing or Internet phone software (which already pays state taxes and fees. Would this be in addition?)
The biggest challenge our company faces as a whole is how to set up software contracts within our procurement system, and how they should be treated across all states.
None noted
yes
Software-as-a-Service (SaaS) software that is cloud based meshes software with data and is very interrelated.
Most of these systems have a set-up fee then either monthly, quarterly or annual subscription fees.

<p>5. What types of computer software sales and services (maintenance, programming, etc.) does your organization obtain via the Internet from third party providers?</p> <p>a. Have those providers historically collected Mississippi sales or use tax on those services?</p> <p>b. With respect to software that you access via the Internet, what if anything is actually downloaded onto your computers or servers that enable you to use those products remotely?</p>
<p>Production machine operating systems (internal and web-based), MRP business management systems (internal and web-based), Communications platforms (internal and web-based), every other aspect of business management.</p>
<p>Operating systems, browsers, application software</p> <p>a. Yes</p> <p>b. apps are downloaded to local machines</p>
<p>Our membership database is via the internet from a third party provider. We have not been paying sales or use tax on this. We strictly access through the internet. Nothing downloaded to computers.</p>
<p>We have a specific software system for job costing accounting which would be impacted with taxation.</p>
<p>HR/Payroll System - no MS use tax, nothing is downloaded in computers or servers</p>
<p>In prior years, the state has approved refund claims when use tax was paid on software located on a server located out of state and accessed only via the internet. If software is downloaded to a PC, then the whole transaction can be tainted and taxable.</p>
<p>none</p>
<p>Microsoft Office. Intuit. Adobe. Clio. Thomson Reuters. Kaspersky. Bloomberg. I download a lot more than most, but more services are starting to disallow that.</p>
<p>MLS Quickbooks Microsoft Franchise services and partnering softwares</p>
<p>There have been some cases where sales tax was charged, raising the question each time whether such fee was ever sent to the state.</p>
<p>a. No taxes currently being collected by vendors.</p> <p>b. Not sure if everything is downloaded onto servers located in a non-taxing state (outside of MS) or if some is on MS computers.</p>
<p>Our MLS vendor and our lockbox vendor as well as our accounting programs all work together and are obtained through the internet. They collect taxes on any tangibles we purchase through them such as actual lockboxes, but our contracts on the intangibles such as programming do not show if use tax is involved. Why would they when they own the programs and we pay to lease them.</p>
<p>stop looking for new ways to take my money</p>
<p>A. Don't know, insignificant. Would cost more to quantify than the amount. B. Don't know or care.</p>
<p>Literally dozens of applications. Several of the solutions are hybrid/tunnel applications that run local software with distributed data.</p>
<p>We have situations which lie in both arenas. Part of our software is housed online and accessed through secure services, while others are supported and reside on servers in our facility.</p>
<p>Our entire ERP system is accessed via the internet.</p>
<p>a. Yes they do.</p> <p>b. Sometimes they vendors have a "Thick Client" and/or a gateway server on our property. Most are simply web based.</p>

Accounting software, Dash cam footage is on the cloud from a server. a. Yes b. payroll service
Business Operating System, Finance System, Quality Control, Microsoft Office, Call Center System, Security System, Payroll, Inventory Management. Some have components downloaded on our servers.
Daily accounting ERP software and supply chain support software
Our historical stance has been to ask vendors to register in MS if they are selling us software accessed via the internet. If we can clearly distinguish that the software is maintained on servers outside the State we do nothing. If not, we self remit use tax as a matter of being conservative.
accessed via internet, hosted in another state, no sales or use tax collected in mississippi
Office software, cloud storage, data services, software subscriptions. a. no b. some software is downloaded and not only web-based
Cybersecurity, SaaS services (including email suite), Accounting software, Cloud-based database management software. a. Most do not collect MS sales tax. b. Only the Cybersecurity software actually downloads anything onto our end-user computers. Everything else is cloud-based SaaS services.
All of the services we utilize to maintain and service our technology have some sort of component that is downloaded. Some software services are taxed and some are not. Apps are downloaded, operating systems, local interfaces, etc. We'd have to examine every piece of software we use to answer this question.

6. What types of other professional services do you obtain via the Internet from third party providers that happens to use software, even if you are not using that software directly? a. What difficulties have you had in determining whether those are taxable or nontaxable in Mississippi? b. Have those providers historically collected Mississippi sales or use tax on those services?
Businesses will be forced into investing in more taxable software to attempt to identify taxable and non-taxable items. This will put immense pressure on the legislature to pass laws to prevent these unintended consequences. Software is such an inherent part of operating platforms and systems that it is not itemized by providers for tax purposes. This will cause a ripple effect throughout the entire industry nation-wide and internationally.
Anti-virus software, email filtering, network monitoring a. All are purchased through local resellers and are already subject to MS sales tax b. Yes
Many of our members utilize payroll services via the internet.
As Wayfair focused on tangible personal property and not services, only the software companies where software is downloaded started charging tax. There are instances where after the proposed regulation by MSDOR, software companies turned on the tax as a precaution.

none
Clio is legal billing software, which is accounting. I don't think sales tax is collected by them. Thomson Reuters and Bloomberg are legal and accounting research services. I don't think sales tax is collected by either of them either. Intuit is Quickbooks so again, accounting.
Multiple Listing Providers
In cases where sales tax was collected, it was undetermined whether the vendor reported such collection.
a. Currently not determining MS taxability as these types of services are sourced to a non-taxing state. b. No.
We get all of our software protection services, our online training programs, our syndication services for listings, are all internet based.
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A. None. B. Don't know or care.
Almost everything we use is not taxable for state purposes because the location of "software" is almost impossible to ascertain.
Unknown
This could impact IoT offerings and SmartHome services
None
Not sure I understand this question. Are you speaking of professional services that use software in their offices? I am very sure that most, if not all, do if so. a. We pay taxes on all services, per our accounting department. b. Yes
Quickbooks a. I have no idea b. dash cam providers have
Unsure to who this would apply
Legal, financial, environmental. These providers typically do not charge sales tax.
None noted.
project management software; data collection software; tax-exempt (government purchase)
cloud storage, databases, website plugins, website hosting a. I've never known they were taxable. b. No, I don't think so.
N/A
See list in #3; Looking at a sample of these vendors, some collect sales tax and some do not.

7. What types of SaaS (software as a service) does your organization use?
a. Do you usually have direct access to that software or just to the results of the third party's use of its own software?
b. Are you able to determine the actual physical location of the underlying software resources that are used or the specific individuals who are providing those services?
c. What difficulties have you had in determining whether those are taxable or nontaxable in Mississippi?
In general, this is an impossible term to define. Small business do not have the core talent to be able to navigate this and will be forced to outsource it, which will be yet another increase in operating costs.
N/A
We have direct use of the software.
HR/Payroll System - no MS use tax, nothing is downloaded in computers or servers. Direct access to the software. Not able to determine the actual physical location. HR/Payroll System is used by entities in multiple states
Companies struggle with that determination on enterprise software that has multiple modules.
RCC. none
None.
Undetermined. Must rely on the vendor whether a sales tax is due.
a. Not sure.
b. Not sure.
c. Currently not determining MS taxability.
Our MLS is a contract to use the results of a third party's use and maintenance of its own software. The resources are all physically located in the states and countries where the main servers of the providers are located. Have not determined the tax status on them.
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A. Both. B. Have not tried. C. None.
Yes. No. Substantial.
All off site software is housed out of state with redundancy. It would be difficult to determine the true location at any given moment.
ERP and operating systems
HR/Payroll (Kronos), Hotel Housekeeping/Facilities (HotSOS), CC Authorization, Minor Reporting app (OPTx), New casino app (Joingo), Anti-Phishing service (Barracuda), Office 365 (Microsoft)
a. Direct Access
b. Not normally
c. I am told by our accounting team that we pay the tax on all services.
Dash cam service a. Use of the software b. No c. very difficult to determine if not being charged by the provider
Unsure how to interpret and apply in our situations.
Daily accounting ERP software and supply chain support software. Typically, all employees have access

to these cloud based portals. To my knowledge, I am not able to locate the underlying resources.
None noted.
G-Suite from Google, Quickbooks, Quickbase (database application), mobile service order platform, Human Resources employee portal a. We have direct access to the software b. We are able to determine some of the locations, depending on who we purchase the SaaS service from. c. N/A
Microsoft Office 365; 7.a. depends on the software; 7.b. sometimes; 7.c. We've never explored this issue with our vendors.

8. What other types of non-software cloud computing resources does your organization use, such as PaaS (platform as a service), IaaS (infrastructure as a service), etc.? a. Have your vendors historically collected Mississippi sales or use tax on those services? b. Are you able to determine the actual physical location of those computer equipment resources?
Again, impossible to understand these terms. In many cases these services are integral and provided transparently as part of the end-service being provided. Asking vendors to separate it out would be impossible and would limit available services from providers that would otherwise be available in a true competitive environment.
None
N/A
Infrastructure services are typically a little easier to allocate.
none
None
Undetermined.
Not sure. a. No. b. Possibly.
don't know

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A. Don't know. B. Don't know.
Vendors for those services have not collected state tax unless they're domiciled here.
We oppose general taxation of business inputs.
Minimal
Only a monitoring service (SOC) for virus/intrusion application. (CYNET)
Dash cams a. Yes b. No
Unsure how to interpret and apply in our situations.
I do not have the expertise to answer this question.
N/A
Our server back-up is laaS, and the company does collect sales tax. We know a little about the physical location of these resources, but don't know everything. Back-up systems often back up the back-ups with additional vendors who may or may not be out of state. The redundancy is a best practice and one of the reasons we chose the vendor we chose.

9. Does your organization maintain backup systems and software in locations outside Mississippi in the event of natural disasters?
a. How have you historically treated those for Mississippi sales and use tax purposes?
Yes. Cloud-based services are integral to many operating systems and are not separated out as to what amount is part of the cloud and what amount is integrated locally. They are intertwined as part of the overall services. It is impossible to treat them as taxable as we cannot separate them.
No
No
Yes. Our cloud service is out of state.
Yes - non taxable for MS since they are not located in MS
When backup software was located out of MS (redundant server) those have not been taxed based on

prior regulation...accessed only via the internet.
no
We use OneDrive for our backup system. I have never paid sales tax on this.
Backup system is used. Did not first determine if sales tax would be charged.
Yes, all systems locations are outside of MS.
a. Non-taxable.
Our third party vendors maintain backup systems outside the state.
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Yes. A. Don't know
Yes. No.
Yes. If charged by the vendor, paid.
Yes, non taxable.
Yes.
a. Yes
No a. No
No
To my knowledge, there is a backup of information at the company's HQ, outside of MS.
yes; tax exempt
Yes a. treated as non-taxable
No
Yes; The vendor has been responsible for determining tax on these products.

10. Does your organization have software license agreements that authorize users located in multiple jurisdictions to use that software remotely via the Internet?
a. If so, have you developed any methods to allocate that cost among those different users?
Yes. Users can log in to our system from anywhere in the world to perform normal everyday tasks. It is impossible to track this activity, much less tax it.
No
No
No
Yes - no have not developed an allocation method to determine allocation among users
The enterprise software is an issue.
no
I can use Microsoft Office 365 and OneDrive anywhere and from any computer. That hosts all of my files. I can use Clio from anywhere and from any computer. That's my billing system. All of my research software can be used from anywhere. Costs are already allocated by user.
N/A
I think so.
a. Costs are probably allocated by cost center which has somewhat of a geographical component.
Our use of the software license agreements is cost allocated per member through our contracts with the vendors based on number, services provided and over what period of time.
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Likely. A. No
No. No.
N/A
yes, minimal allocations take place.
No
NO
Yes, we have not.
Yes
yes; a; no
No- all local users
No
Does not apply to us.

11. Does your organization have software license agreements that cover multiple software products or features that are not used uniformly by your users in multiple jurisdictions? a. If so, have you developed any methods to allocate the cost of the different product and features to different users or jurisdictions based on usage or any other factor?
Yes. Integrated into most every operating system is the ability to other entities to log in and provide assistance, troubleshooting, etc. This cannot be tracked.
No
No
Yes, o have not developed an allocation method to determine allocation among users
The enterprise software is an issue.
no
This isn't an issue for me right now.
N/A
I think so.
a. Not sure how detailed costs would be allocated.
No
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No.
No. No
No
Yes but allocation methods are unknown.
No
No
Yes, we have not.
I would not know the answer to this.
yes; microsoft suite; not allocated
No
Does not apply to us.

12. Have you had any instances in which a vendor collected Mississippi sales or use tax on an Internet or cloud-based service that you thought was nontaxable?
a. Were you able to contest and/or recover those taxes from either the vendor or the DOR? If so, can you share that experience?
No. This has never been brought up.
No
No
No
Use tax self accrued has been refunded on prior audits. A bank was able to have sales tax refunded on a SAS contract from the vendor (MSDOR approved refund).
no
Not off the top of my head.
No
Probably so. Had no reliable method to contest or recover.
No.
a. N/A
have had no instances of such action
stop looking for new ways to take my money
No. N/A
No.N/A
No
No
No
No a. n/a
No
I have not seen this happen personally.
no
No
No

Have not experienced this.

13. Does your organization obtain computer software or related services that are for resale to your own customers? a. If so, how do you distinguish situations where you incorporate that directly into a product or service that you provide to that customer, as opposed to your own direct consumption of that product or service?
No.
No
No
No
Yes - based on the number of license
NA
no
Yes. I commonly do not distinguish between the two. Again, I sell knowledge and my opinion of that knowledge. Sometimes, a lot of times, my opinions are shaped by the opinions of others. I'm not reading the tax code and regulations and obtaining tax court opinions direct from the court or IRS rulings direct from the IRS. I use compilation services and other research products to do that for me.
No
No.
No.
we do not offer resale, only user leasing options based on membership types
stop looking for new ways to take my money
No. N/A
No. No
No
This could impact IoT offerings and SmartHome services
No
No
NO
No

I do not believe so.
no
No
No
Our real estate school offers courses online through an out of state vendor. The product is for our students, so not utilized by staff.

14. Does your organization use or consume software or related services in order to provide a taxable service to your end customers?
No.
No
No
No
No
No
NA
yes
Yes.
No
No.
No.
no
stop looking for new ways to take my money
No
No.
No

No
Yes. However all of our "retail/production" systems are not SaaS systems.
NO
No
No.
no
No
Yes
No

<p>15. Does your organization provide computer software or services to related divisions affiliates, whether inside or outside Mississippi?</p> <p>a. If so, is that use compensated? How are the amounts for those charges determined?</p> <p>b. If compensated, does the organization distinguish between charging those affiliates for the use of third-party software as opposed to self-created or maintained systems?</p> <p>c. Are those charges ever embedded in a broader management or administrative services charge?</p> <p>i. If so, would you be able to isolate and identify the portion of that charge that is attributable to computer software or services?</p> <p>d. If your organization is headquartered in Mississippi or your software is maintained on servers in Mississippi, did you pay Mississippi sales or use tax on the original purchase or development of those systems?</p> <p>i. Has any other state tried to charge sales or use tax on the use of those systems by employees located outside Mississippi?</p>
No - Impossible to identify.
No. Only located in Mississippi
No
Yes - a. Corporate absorbs all the costs c. Yes, no
If the affiliate is a separate legal entity and located in MS, the MSDOR has levied sales tax.
no

No.
No
Undetermined.
No
no idea
stop looking for new ways to take my money
No.
No
Yes, but allocations are unknown.
No
NO
No
I am not 100% sure, but I do not believe so.
no
No
No
Does not apply.

The Mississippi Taxation of Remote Internet-Based Computer Software Products and Services
Study Committee Survey

1. What are your thoughts generally on the primary question of whether Mississippi should levy a sales or use tax on software that serves as a commercial business input?

Based on the statutes currently in place, Mississippi has the authority and currently does tax software being used as a commercial business input if the software is located in Mississippi. The issue arises when the software is stored on servers out of state. As a result, double-taxation can be a problem, as can the apportionment of the use of the software when a company's operations occur in several states.

- a. How might this issue impact Mississippi from an economic competitiveness standpoint?

Under the proposed regulations, the rules would increase the tax burdens of local businesses, which would not benefit the state from an economic competitiveness standpoint.

2. Has your organization been able to quantify any potential increased operating costs that might have resulted from the Department's proposed amendment to its sales tax regulation on Computer Equipment, Software and Services?
No.

3. Does your organization have any industry-specific scenarios, services, or products that the Committee should consider addressing in detail as part of this process?

Yes, as a nation-wide accounting firm, the question of how to determine where accounting software is being used is an issue. We have several clients in several states. We also have employees that work remotely from several states (and internationally). How do we determine where the software is being used?

As an example, Client X has operations centers in 10 states. Our accounting firm has several team members engaged in analyzing the operational efficiency of Client X's operations centers. These team members work in Alabama, Mississippi, and Tennessee. The team members are using accounting software that was invoiced to the firm's headquarters in Mississippi. The accounting firm is invoicing Client X at its headquarters in Minnesota. It is unclear which jurisdictions should have taxes remitted to them, and how much to remit.

4. What practical issues does your organization experience when trying to distinguish between purchases or use of software and data, whether on an internal or third-party basis? Are there situations where those items are so interrelated that they cannot be specifically distinguished?

5. What types of computer software sales and services (maintenance, programming, etc.) does your organization obtain via the Internet from third party providers? **ERM, CRM, Tax Preparation, Database Storage and Management, Electronic Mail, Graphic Design, etc.**
- a. Have those providers historically collected Mississippi sales or use tax on those services? **Yes, with the exception of a couple vendors that do not charge us sales tax in their invoices. For the vendors that are the exception, we file and pay the sales tax for those invoices with the monthly MS sales tax return.**
 - b. With respect to software that you access via the Internet, what if anything is actually downloaded onto your computers or servers that enable you to use those products remotely? **Software accessed from the internet often requires no application other than the browser software that already exists. A smaller subset of internet-based applications may require the loading of a "local client" to provide better performance or enhanced features.**
6. What types of other professional services do you obtain via the Internet from third party providers that happens to use software, even if you are not using that software directly? **Software development services, database management services, cyber security monitoring, legal services, market surveys, compliance services, etc.**
- a. What difficulties have you had in determining whether those are taxable or nontaxable in Mississippi? **It is often difficult to determine if a web-based software is housed on local servers vs in the cloud.**
7. Have those providers historically collected Mississippi sales or use tax on those services? **No for Software development and Database management and cyber monitoring.**
8. What types of SaaS (software as a service) does your organization use? Office productivity, HR system, data and reporting, collaboration and communication.
- a. Do you usually have direct access to that software or just to the results of the third party's use of its own software? **Direct**
 - b. Are you able to determine the actual physical location of the underlying software resources that are used or the specific individuals who are providing those services? **These vendors provide information on which services they use to host their application. Typically, those are**

cloud services providers like Microsoft Azure or AWS. Those hosting providers use physical sites distributed across the US and sometimes Internationally.

- c. What difficulties have you had in determining whether those are taxable or nontaxable in Mississippi? **It is often difficult to determine if a web-based software is housed on local servers vs in the cloud.**
9. What other types of non-software cloud computing resources does your organization use, such as PaaS (platform as a service), IaaS (infrastructure as a service), etc.? We utilize Microsoft Azure for PaaS and IaaS services.
 - a. Have your vendors historically collected Mississippi sales or use tax on those services? **No.**
 - b. Are you able to determine the actual physical location of those computer equipment resources? **No.**
10. Does your organization maintain backup systems and software in locations outside Mississippi in the event of natural disasters? **No.**
 - a. How have you historically treated those for Mississippi sales and use tax purposes?
11. Does your organization have software license agreements that authorize users located in multiple jurisdictions to use that software remotely via the Internet? **Yes.**
 - a. If so, have you developed any methods to allocate that cost among those different users? **Yes.**
12. Does your organization have software license agreements that cover multiple software products or features that are not used uniformly by your users in multiple jurisdictions? **Yes.**
 - a. If so, have you developed any methods to allocate the cost of the different product and features to different users or jurisdictions based on usage or any other factor? **Yes.**
13. Have you had any instances in which a vendor collected Mississippi sales or use tax on an Internet or cloud-based service that you thought was nontaxable? **No, not that we're aware of.**
 - a. Were you able to contest and/or recover those taxes from either the vendor or the DOR? If so, can you share that experience? **N/A**
14. Does your organization obtain computer software or related services that are for resale to your own customers? **No.**

- a. If so, how do you distinguish situations where you incorporate that directly into a product or service that you provide to that customer, as opposed to your own direct consumption of that product or service? **N/A**
- 15. Does your organization use or consume software or related services in order to provide a taxable service to your end customers? **Yes**
- 16. Does your organization provide computer software or services to related divisions affiliates, whether inside or outside Mississippi? **Yes.**
 - a. If so, is that use compensated? How are the amounts for those charges determined? **No.**
 - b. If compensated, does the organization distinguish between charging those affiliates for the use of third-party software as opposed to self-created or maintained systems? **N/A**
 - c. Are those charges ever embedded in a broader management or administrative services charge? **N/A**
 - i. If so, would you be able to isolate and identify the portion of that charge that is attributable to computer software or services? **N/A**
 - d. If your organization is headquartered in Mississippi or your software is maintained on servers in Mississippi, did you pay Mississippi sales or use tax on the original purchase or development of those systems? **Yes.**
 - i. Has any other state tried to charge sales or use tax on the use of those systems by employees located outside Mississippi? **No.**

Software Committee – List of Topics for Feedback Intake Form

Use this form to comment on topics the study committee may consider. Specific examples and hypothetical scenarios would be helpful in fully understanding the ramifications of tax policy. Submissions are anonymous.

1. What are your thoughts generally on the primary question of whether Mississippi should levy a sales or use tax on software that serves as a commercial business input?
 - a. How might this issue impact Mississippi from an economic competitiveness standpoint?

The law should be definitive on what the Department of Revenue should be able to tax.

2. Has your organization been able to quantify any potential increased operating costs that might have resulted from the Department's proposed amendment to its sales tax regulation on Computer Equipment, Software and Services?

<https://www.forbes.com/sites/davidundercoffler/2021/12/31/buckle-up--subscriptions-are-coming-for-your-cars-best-features/?sh=615da335310b>

3. Does your organization have any industry-specific scenarios, services, or products that the Committee should consider addressing in detail as part of this process?

<https://www.forbes.com/sites/davidundercoffler/2021/12/31/buckle-up--subscriptions-are-coming-for-your-cars-best-features/?sh=615da335310b>

4. What practical issues does your organization experience when trying to distinguish between purchases or use of software and data, whether on an internal or third-party basis? Are there situations where those items are so interrelated that they cannot be specifically distinguished?

5. What types of computer software sales and services (maintenance, programming, etc.) does your organization obtain via the Internet from third party providers?

- a. Have those providers historically collected Mississippi sales or use tax on those services?
 - b. With respect to software that you access via the Internet, what if anything is actually downloaded onto your computers or servers that enable you to use those products remotely?
-

6. What types of other professional services do you obtain via the Internet from third party providers that happens to use software, even if you are not using that software directly?

- a. What difficulties have you had in determining whether those are taxable or nontaxable in Mississippi?
 - b. Have those providers historically collected Mississippi sales or use tax on those services?
-

7. What types of SaaS (software as a service) does your organization use?

- a. Do you usually have direct access to that software or just to the results of the third party's use of its own software?
 - b. Are you able to determine the actual physical location of the underlying software resources that are used or the specific individuals who are providing those services?
 - c. What difficulties have you had in determining whether those are taxable or nontaxable in Mississippi?
-

8. What other types of non-software cloud computing resources does your organization use, such as PaaS (platform as a service), IaaS (infrastructure as a service), etc.?

- a. Have your vendors historically collected Mississippi sales or use tax on those services?
 - b. Are you able to determine the actual physical location of those computer equipment resources?
-

9. Does your organization maintain backup systems and software in locations outside Mississippi in the event of natural disasters?

a. How have you historically treated those for Mississippi sales and use tax purposes?

.....

10. Does your organization have software license agreements that authorize users located in multiple jurisdictions to use that software remotely via the Internet?

a. If so, have you developed any methods to allocate that cost among those different users?

.....

11. Does your organization have software license agreements that cover multiple software products or features that are not used uniformly by your users in multiple jurisdictions?

a. If so, have you developed any methods to allocate the cost of the different product and features to different users or jurisdictions based on usage or any other factor?

.....

12. Have you had any instances in which a vendor collected Mississippi sales or use tax on an Internet or cloud-based service that you thought was nontaxable?

a. Were you able to contest and/or recover those taxes from either the vendor or the DOR? If so, can you share that experience?

.....

13. Does your organization obtain computer software or related services that are for resale to your own customers?

a. If so, how do you distinguish situations where you incorporate that directly into a product or service that you provide to that customer, as opposed to your own direct consumption of that product or service?

.....

14. Does your organization use or consume software or related services in order to provide a taxable service to your end customers?

15. Does your organization provide computer software or services to related divisions affiliates, whether inside or outside Mississippi?

a. If so, is that use compensated? How are the amounts for those charges determined?

b. If compensated, does the organization distinguish between charging those affiliates for the use of third-party software as opposed to self-created or maintained systems?

c. Are those charges ever embedded in a broader management or administrative services charge?

i. If so, would you be able to isolate and identify the portion of that charge that is attributable to computer software or services?

d. If your organization is headquartered in Mississippi or your software is maintained on servers in Mississippi, did you pay Mississippi sales or use tax on the original purchase or development of those systems?

i. Has any other state tried to charge sales or use tax on the use of those systems by employees located outside Mississippi?

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Software Committee – List of Topics for Feedback Intake Form

Use this form to comment on topics the study committee may consider. Specific examples and hypothetical scenarios would be helpful in fully understanding the ramifications of tax policy. Submissions are anonymous.

1. What are your thoughts generally on the primary question of whether Mississippi should levy a sales or use tax on software that serves as a commercial business input?

a. How might this issue impact Mississippi from an economic competitiveness standpoint?

This is the most complex and negative idea on taxation I have ever heard. In today's advanced manufacturing environment, virtually every aspect of manufacturing operations is related to computerization and the supporting software therein. The term "commercial business input" is the most vague concept, as it relates to software I can ever imagine. Economic competitiveness will be negatively affected, either through the actual taxation or thru development of business / accounting practices and procedures to minimize the input.

2. Has your organization been able to quantify any potential increased operating costs that might have resulted from the Department's proposed amendment to its sales tax regulation on Computer Equipment, Software and Services?

In an advanced manufacturing environment with several multi-million machines that rely on operating systems that are continually and automatically updated, this law will require a unique and separate set of system to identify and track all software related activities. This will place an extremely large burden on small, high-tech businesses throughout the state. Items included are machine operating systems, manufacturing MRP systems, communications platforms, asset management systems, accounting systems, sales systems, customer service platforms, energy management systems, etc. etc. The identification of each of these costs in order to make an argument in this case would be over-burdensome. This should be a no-brainer and will result in a complex myriad of far-reaching unintended consequences.

3. Does your organization have any industry-specific scenarios, services, or products that the Committee should consider addressing in detail as part of this process?

Cloud-based business management platforms that require maintenance fees to keep it up to date and, most importantly, secure. Machine operating systems that require regular maintenance fees to keep them up to date and secure. Softwares that requires continuous updates to change with external issues, opportunities, and threats.

4. What practical issues does your organization experience when trying to distinguish between purchases or use of software and data, whether on an internal or third-party basis? Are there situations where those items are so interrelated that they cannot be specifically distinguished?

Software and data are interchangeable and cannot be separated. At its core, it is impossible to segregate and track. This is similar to taxing core operating necessities that are extremely unique and interrelated at the same time. Deciding what portion of software is a commercial input and what portion is not is impossible. Physical assets are purchased that require unique operating and programming modules that "continuously" retrieve data from multiple local, external, national, and international sources.

5. What types of computer software sales and services (maintenance, programming, etc.) does your organization obtain via the Internet from third party providers?

- a. Have those providers historically collected Mississippi sales or use tax on those services?
- b. With respect to software that you access via the Internet, what if anything is actually downloaded onto your computers or servers that enable you to use those products remotely?

Production machine operating systems (internal and web-based), MRP business management systems (internal and web-based), Communications platforms (internal and web-based), every other aspect of business management.

6. What types of other professional services do you obtain via the Internet from third party providers that happens to use software, even if you are not using that software directly?

- a. What difficulties have you had in determining whether those are taxable or nontaxable in Mississippi?
- b. Have those providers historically collected Mississippi sales or use tax on those services?

Businesses will be forced into investing in more taxable software to attempt to identify taxable and non-taxable items. This will put immense pressure on the legislature to pass laws to prevent these unintended consequences. Software is such an inherent part of operating platforms and systems that it is not itemized by providers for tax purposes. This will cause a ripple effect throughout the entire industry nation-wide and internationally.

7. What types of SaaS (software as a service) does your organization use?

- a. Do you usually have direct access to that software or just to the results of the third party's use of its own software?
- b. Are you able to determine the actual physical location of the underlying software resources that are used or the specific individuals who are providing those services?
- c. What difficulties have you had in determining whether those are taxable or nontaxable in Mississippi?

In general, this is an impossible term to define. Small business do not have the core talent to be able to navigate this and will be forced to outsource it, which will be yet another increase in operating costs.

8. What other types of non-software cloud computing resources does your organization use, such as PaaS (platform as a service), IaaS (infrastructure as a service), etc.?

- a. Have your vendors historically collected Mississippi sales or use tax on those services?
- b. Are you able to determine the actual physical location of those computer equipment resources?

Again, impossible to understand these terms. In many cases these services are integral and provided transparently as part of the end-service being provided. Asking vendors to separate it out would be impossible and would limit available services from providers that would otherwise be available in a true competitive environment.

9. Does your organization maintain backup systems and software in locations outside Mississippi in the event of natural disasters?

- a. How have you historically treated those for Mississippi sales and use tax purposes?

Yes. Cloud-based services are integral to many operating systems and are not separated out as to what amount is part of the cloud and what amount is integrated locally. They are intertwined as part of the overall services. It is impossible to treat them as taxable as we cannot separate them.

10. Does your organization have software license agreements that authorize users located in multiple jurisdictions to use that software remotely via the Internet?

a. If so, have you developed any methods to allocate that cost among those different users?

Yes. Users can log in to our system from anywhere in the world to perform normal everyday tasks. It is impossible to track this activity, much less tax it.

11. Does your organization have software license agreements that cover multiple software products or features that are not used uniformly by your users in multiple jurisdictions?

a. If so, have you developed any methods to allocate the cost of the different product and features to different users or jurisdictions based on usage or any other factor?

Yes. Integrated into most every operating system is the ability to other entities to log in and provide assistance, troubleshooting, etc. This cannot be tracked.

12. Have you had any instances in which a vendor collected Mississippi sales or use tax on an Internet or cloud-based service that you thought was nontaxable?

a. Were you able to contest and/or recover those taxes from either the vendor or the DOR? If so, can you share that experience?

No. This has never been brought up.

13. Does your organization obtain computer software or related services that are for resale to your own customers?

a. If so, how do you distinguish situations where you incorporate that directly into a product or service that you provide to that customer, as opposed to your own direct consumption of that product or service?

No.

14. Does your organization use or consume software or related services in order to provide a taxable service to your end customers?

No.

15. Does your organization provide computer software or services to related divisions affiliates, whether inside or outside Mississippi?
- a. If so, is that use compensated? How are the amounts for those charges determined?
 - b. If compensated, does the organization distinguish between charging those affiliates for the use of third-party software as opposed to self-created or maintained systems?
 - c. Are those charges ever embedded in a broader management or administrative services charge?
 - i. If so, would you be able to isolate and identify the portion of that charge that is attributable to computer software or services?
 - d. If your organization is headquartered in Mississippi or your software is maintained on servers in Mississippi, did you pay Mississippi sales or use tax on the original purchase or development of those systems?
 - i. Has any other state tried to charge sales or use tax on the use of those systems by employees located outside Mississippi?

No - Impossible to identify.

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Software Committee - MBA Request for Feedback Survey

Please use this form to comment on topics the study committee may consider. The Mississippi Bankers Association is working to compile and aggregate any available specific examples, hypothetical scenarios, and other data to best help the study committee fully understand the ramifications of tax policy in Mississippi and the potential impacts to the banking industry and broader business community. Please answer these questions on behalf of your bank, any bank clients you may have, or your firm/business.

If you have any questions or would like to request additional information about the Software Taxation study committee created by the MS Legislature during the 2022 session, please contact Eric Bennett at ebennett@msbankers.com or 601-408-0662.

1. 1.) What are your thoughts generally on the primary question of whether Mississippi should levy a sales or use tax on software that serves as a commercial business input? a.) How might this issue impact Mississippi from an economic competitiveness standpoint?

Generally, this is not a surprising action being taken by the MSDOR. Like many other state and local tax jurisdictions, the pursuit of increasing revenue is a priority. Two of the most significant factors in managing revenue by taxing authorities are the tax rate and the tax base. MSDOR is seeking to expand the tax base by altering the definition of software and pulling in additional services that are not otherwise taxable at this point.

From an economic competitiveness standpoint, this expansion of the tax base will make Mississippi less competitive than neighboring states. Amongst the states in the Gulf South region, Texas would be the only other state that taxes SaaS offerings. Alabama, Florida, Georgia and Louisiana do not currently tax SaaS. Florida and Georgia have issued letter rulings or information bulletins stating that SaaS is not taxable under its current statutes. (Alabama and Louisiana has not issued definitive legislature or regulations to address SaaS taxability.)

Additionally, there are many administrative questions that need to be addressed if MSDOR were to expand the tax base.

2. 2.) Has your organization been able to quantify any potential increased operating costs (such as increased tax liability incurred if the Department had eliminated its exception for software based on out-of-state servers & accessed only via electronic or remote means) that might have resulted from the Department's proposed amendment to its sales tax regulation on Computer Equipment, Software and Services? (attached to the email or you can contact Eric Bennett at ebennett@msbankers.com for questions or to receive a copy)

Yes

3. 3.) Has your bank, or bank client, experienced any attempt by the Department to collect any alleged liability for any such SaaS, other cloud-computing services, or any other software maintained on out-of-state servers and accessed only via electronic or remote means by your bank or bank client?

No.

4. 4.) Has your bank, or bank client, received any communication from the Department of Revenue intended to inform your bank or client that SaaS, cloud-computing services, or any other software maintained on out-of-state servers is considered taxable by the Department? a.) If so, would you be willing to share any details or a copy of any such communication? Copies can be emailed to Eric Bennett at ebennett@msbankers.com (the MBA will maintain all individual responses to aggregate for any usage by the committee).

The Bank has not received anything directly, but has experienced vendors coming back and requesting back charged taxes and assessing sales tax prospectively. In talking to vendors, our understanding is that the MSDOR has instructed them to collect sales tax. Some vendor has released such instruction from the MSDOR. A redacted copy was previously provided to John Fletcher at Jones Walker last year for what was published from TTR research provider.

5. 5.) If possible, can you provide specific examples of how your bank, or bank client, may use cloud-computing services or any other similar software or services that could be impacted if the Department's proposed regulation had gone into effect?

With the onset of on-line banking there are many aspects of any banking relationship that utilizes cloud-computing services. "Data" as currently defined in the propose regulation can encompass anything that impacts both client-facing and back-office functions. When a customer initiates any transaction (fund transfer, bill pay, loan, etc.), those transactions are effectuated through a series of data flow impacting various systems that may be hosted in out of state servers or on the cloud. Likewise, with back office functions, many platforms utilized for day to day operations could be on out of state servers or on the cloud.

6. 6.) To the extent possible, can you provide any data or information on any tax liability your bank, bank client, or your firm may have in other states that tax SaaS, cloud-computing services, or other software as a commercial business input?

See earlier response - majority of Gulf Coast states do not tax SaaS currently with the exception of Texas. Tax liability is dependent is how much operation and personnel are house/conducted within Texas, would be different between all taxpayers. This brings back the discussion to whether the proposed regulation makes MS a less desirable jurisdiction to operate in (assuming sourcing is based on user location). Note: By less desirable, we are referring to the business decision of how "users" to maintain in MS - this can translate to work force reduction impacts to MS. Ancillary consideration would be this could impact other business decisions regarding in-state activity that could interplay with other tax streams potentially.

7. 7.) Does your organization have any industry-specific scenarios, services, or products that the Committee should consider addressing in detail as part of this process?

Industry-specific scenarios would be on-line banking services, which includes various "-aaS" interplay amongst internal and external parties. Card payment processing that generates interchange income is another revenue stream that should be addressed. In the event MS does pull in "-aaS" into the tax base, sourcing would be a complicated exercise that would need to be addressed since so many platforms impact both customers and back office functions.

8. 8.) What practical issues does your organization experience when trying to distinguish between purchases or use of software and data, whether on an internal or third-party basis? Are there situations where those items are so interrelated that they cannot be specifically distinguished?

Practical issues have arisen lately when dealing with professional services received when dealing with "customizations" for hosted solutions that are located on the cloud. Some vendors have indicated that they are required to charge MS sales for the professional services rendered despite the services being performed out of state. This contradicts traditional professional service taxation principles in MS. It appears that because the services are related to "-aaS" services received, everything is switched to a "user" perspective and sourced to MS. This is an inter-relationship component of "-aaS" where professional service is incurred in order to get the cloud-based solution to work properly (e.g., customizations, maintenance, etc.)

9. 9.) What types of computer software sales and services (maintenance, programming, etc.) does your organization obtain via the Internet from third party providers? a.) Have those providers historically collected Mississippi sales or use tax on those services? b.) With respect to software that you access via the Internet, what if anything is actually downloaded onto your computers or servers that enable you to use those products remotely?

There are various platforms utilized to conduct business as a Bank. Historically, our experience has been dependent on the vendor we are dealing with. Typically, if the servers are located on out of states where a user logs in through internet browser, then these cloud-based servers are not subject to MS sales tax. In the case where a user has to download a module to access the cloud-based software, then we have taxing such services due to ambiguity in the law. This is a gray area that has not been explicitly addressed by the MSDOR. There is an argument that a taxpayer should look through to exactly what is installed on the machine. Is it just a "door" to get to the cloud based server, similar to the internet browser? Or is something more substantive happening that truly would trigger sourcing to MS?

10. 10.) What types of other professional services do you obtain via the Internet from third party providers that happens to use software, even if you are not using that software directly? a.) What difficulties have you had determining whether those are taxable/nontaxable in Mississippi? b.) Have those providers historically collected Mississippi sales or use tax on those services?

See item 9 above for response.

11. 11.) What types of SaaS (software as a service) does your organization use? a.) Do you usually have direct access to that software or just to the results of the third party's use of its own software? b.) Are you able to determine the actual physical location of the underlying software resources that are used or the specific individuals who are providing those services? c.) What difficulties have you had in determining whether those are taxable or nontaxable in Mississippi?

It is a mixed bag. It is dependent on the vendor to make that determination and whether they are willing to share/discuss with us as the taxpayer. Our experience has been that vendors typically just tax if in doubt because the sales tax is not their expense. They are just agents of the State to collect on the State's behalf. As such, we have little recourse as taxpayers when the vendor is not willing to provide insight/detail.

12. 12.) What other types of non-software cloud computing resources does your organization use, such as PaaS (platform as a service), IaaS (infrastructure as a service), etc.? a.) Have your vendors historically collected Mississippi sales or use tax on those services? b.) Are you able to determine the actual physical location of those computer equipment resources?

The Bank does have PaaS and IaaS platforms being used. Historical experience is similar to above response regarding SaaS.

13. 13.) Does your organization maintain backup systems and software in locations outside Mississippi in the event of natural disasters? a.) How have you historically treated those for Mississippi sales and use tax purposes?

Our organization does have backup servers outside of MS. The tax treatment of the backup servers is determined based on where they are located, which would not be in MS.

Please clarify the above regarding why backup servers would be taxable in MS when they are not located in MS. The primary server in MS that would be down during a disaster was already taxed previously. This is based on physical location.

14. 14.) Does your organization have software license agreements that authorize users located in multiple jurisdictions to use that software remotely via the Internet? a.) If so, have you developed any methods to allocate that cost among those different users?

Yes, we do have such agreements. However, majority of Gulf Coast states do not tax SaaS so there has not been a huge cost allocation process developed for us. This is not the case of other taxpayers that operate in other states.

Sourcing is one of the critical administrative questions that would have to be addressed by MS along with potential sales tax credit concepts when dealing jurisdictional differences in sourcing.

15. 15.) Does your organization have software license agreements that cover multiple software products or features that are not used uniformly by your users in multiple jurisdictions? a.) If so, have you developed any methods to allocate the cost of the different product and features to different users or jurisdictions based on usage or any other factor?

See item 14 above for response.

16. 16.) Have you had any instances in which a vendor collected Mississippi sales or use tax on an Internet or cloud-based service that you thought was nontaxable? a.) Were you able to contest and/or recover those taxes from either the vendor or the DOR? If so, can you share that experience?

Yes, we have had instances where a vendor collected MS sales tax that we thought was nontaxable. We have not been able to recover the taxes to date, but have only used the avenue of requesting the vendor to file a claim of refund. We have not explored the additional avenue of filing with the state directly. The procedural process requires taxpayers to go through the vendor first before being granted the right to file a refund claim directly with the state.

17. 17.) Does your organization obtain computer software or related services that are for resale to your own customers? a.) If so, how do you distinguish situations where you incorporate that directly into a product or service that you provide to that customer, as opposed to your own direct consumption of that product or service?

We would argue that we do not resell any software or related services to our customers. However, this is one of the administrative points that needs to be addressed. Customers have the ability to conduct on-line banking. Banks charge fees on select transactions - is there a potential to recast a portion of such fees when the transaction is conducted on-line versus in person at a branch location. Additionally, a Bank has various legal entities that may be users of cloud-based services and/or software. Administratively, intercompany transactions would have be addressed. We would argue these are cost reimbursements and not sales that have transpired and subject to sales tax.

18. 18.) Does your organization use or consume software or related services in order to provide a taxable service to your end customers?

Banking transactions currently are not subject to sales tax. See above discussion regarding how a bank does business and whether the proposed regulation brings up transfer pricing or imputed value considerations.

19. 19.) Does your organization provide computer software or services to related divisions affiliates, whether inside or outside Mississippi? a.) If so, is that use compensated? How are the amounts for those charges determined? b.) If compensated, does the organization distinguish between charging those affiliates for the use of third-party software as opposed to self-created or maintained systems? c.) Are those charges ever embedded in a broader management or administrative services charge? (i.) If so, would you be able to isolate and identify the portion of that charge that is attributable to computer software or services? d.) If your organization is headquartered in Mississippi or your software is maintained on servers in Mississippi, did you pay Mississippi sales or use tax on the original purchase or development of those systems? (i.) Has any other state tried to charge sales or use tax on the use of those systems by employees located outside Mississippi?

See item 17 above for response.

(a) - (c): We would call such charges cost reimbursement. I do not think transfer pricing is as granular as what is itemized above, but this would require a separate discussion if needed.

(d) Yes, we paid MS sales if software is maintained on servers in MS.

(d)(i) No, because we operate in the Gulf Coast state that generally does not tax "aaS."

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It appears the State of MS is trying to update their laws to reflect the current reality of software. In the past, MS taxed all software purchases – whether in tangible format (e.g. cd, diskettes) or via the internet (e.g. downloading a software onto your computer). The Statutes didn't really address software located in the cloud, and this is MS's attempt to address that.

With this, all cloud computing is now clearly taxable. Professional services directly related to technical design and programming of computer software is taxable. Just as before, there will still not be a casual sale exemption for the sale of software. However, sales of software or software services transmitted by the internet to a destination outside of MS where the first use of such software and software services by the purchaser occurs outside of MS is exempt.

The use of accounting/legal services are still exempt if the true object is the service. If not clear what the true object is, then even professional services (e.g. accounting/legal) charges will be fully taxable if it is determined to be incidental to the sale of computer hardware, software, or programs.

I don't think the proposed regulation makes it clear how MS would tax cloud services that impacts more than one state...it wouldn't take but an aggressive auditor wanting to make a name for himself to try to assess the entire amount of a cloud invoice even if the agreement was forged between the provider and the taxpayer at the taxpayer's hq in another state (e.g. Utah), even though only 1% of the workforce utilizing the cloud service was actually in MS. In my view, the language concerning this type of situation should be made more clear.

3 concerns: COMPLEXITY, PRIVACY, SECURITY

My first impression is that this would add complexity that would be hard for IT companies and their clients to manage. My client's data resides in at least 3 locations: The "cloud," which means two out-of-state huge data centers where we lease space, and on their local environment. This is very common. Every business (except some micro biz) uses computer software that would fit the "expanded definition." Many businesses don't even know where their cloud infrastructure is located (their IT company might know), and most aren't going to know (probably until faced with a nasty audit) that they were supposed to pay a tax on using their cloud-based accounting software (e.g. QuickBooks) or Point-of-Sale software.

2nd thought is regarding privacy. How is the Mis. Dept. Rev. going to track when businesses access out-of-state software WITHOUT gathering tons of information the gov't doesn't need to know?

3rd thought is regarding security. If the state gov't is gathering data to track "taxable events," how robust is that state's cyber security? Would they be able to secure that data? That data could be valuable/dangerous in the wrong hands.

Maybe they thought through these issues and have good answers, but within less than a minute I've got lots of red flags popping up in my mind.

Massachusetts

The Massachusetts legislature later attempted a more narrow sales tax on certain computer services in 2013. The passed legislation expanded the definition of services to include computer software and design services, including cloud services. Technology is an increasingly large part of a state's economy, and legislative analysts projected that the new "tech tax" would bring in \$160 million per year. However, opponents feared that the law would have had a significant negative impact on the growth of Massachusetts' technology sector, so the new tax faced an immediate backlash from the technology and services community. Businesses claimed that the tax was putting them out of business, and opposition from the state's businesses "rained down pressure on lawmakers." As a result, Massachusetts repealed the tax two months later.

Maryland

Another notable failed sales tax reform occurred in Maryland in 2007. State officials proposed expanding the state's sales tax to several services, but deliberately did not include some of the more. Politically powerful ones, such as legal, accounting, medical and real estate services. Representatives of other service industries argued that their services were just as vital as the excluded ones. In the final legislation, the broad sales tax expansion became just a new tax on computer services, which was ultimately repealed after pressure from the computer industry.

Software Committee – List of Topics for Feedback Intake Form

Use this form to comment on topics the study committee may consider. Specific examples and hypothetical scenarios would be helpful in fully understanding the ramifications of tax policy. Submissions are anonymous.

1. What are your thoughts generally on the primary question of whether Mississippi should levy a sales or use tax on software that serves as a commercial business input?
- a. How might this issue impact Mississippi from an economic competitiveness standpoint?

2. Has your organization been able to quantify any potential increased operating costs that might have resulted from the Department’s proposed amendment to its sales tax regulation on Computer Equipment, Software and Services?

Negligible

3. Does your organization have any industry-specific scenarios, services, or products that the Committee should consider addressing in detail as part of this process?

No

4. What practical issues does your organization experience when trying to distinguish between purchases or use of software and data, whether on an internal or third-party basis? Are there situations where those items are so interrelated that they cannot be specifically distinguished?

5. What types of computer software sales and services (maintenance, programming, etc.) does your organization obtain via the Internet from third party providers?

- a. Have those providers historically collected Mississippi sales or use tax on those services?
- b. With respect to software that you access via the Internet, what if anything is actually downloaded onto your computers or servers that enable you to use those products remotely?

Operating systems, browsers, application software

- a. Yes
- b. apps are downloaded to local machines

6. What types of other professional services do you obtain via the Internet from third party providers that happens to use software, even if you are not using that software directly?

- a. What difficulties have you had in determining whether those are taxable or nontaxable in Mississippi?
- b. Have those providers historically collected Mississippi sales or use tax on those services?

Anti-virus software, email filtering, network monitoring

- a. All are purchased through local resellers and are already subject to MS sales tax
- b. Yes

7. What types of SaaS (software as a service) does your organization use?

- a. Do you usually have direct access to that software or just to the results of the third party's use of its own software?
- b. Are you able to determine the actual physical location of the underlying software resources that are used or the specific individuals who are providing those services?
- c. What difficulties have you had in determining whether those are taxable or nontaxable in Mississippi?

8. What other types of non-software cloud computing resources does your organization use, such as PaaS (platform as a service), IaaS (infrastructure as a service), etc.?

a. Have your vendors historically collected Mississippi sales or use tax on those services?

b. Are you able to determine the actual physical location of those computer equipment resources?

None

9. Does your organization maintain backup systems and software in locations outside Mississippi in the event of natural disasters?

a. How have you historically treated those for Mississippi sales and use tax purposes?

No

10. Does your organization have software license agreements that authorize users located in multiple jurisdictions to use that software remotely via the Internet?

a. If so, have you developed any methods to allocate that cost among those different users?

No

11. Does your organization have software license agreements that cover multiple software products or features that are not used uniformly by your users in multiple jurisdictions?

a. If so, have you developed any methods to allocate the cost of the different product and features to different users or jurisdictions based on usage or any other factor?

No

12. Have you had any instances in which a vendor collected Mississippi sales or use tax on an Internet or cloud-based service that you thought was nontaxable?

a. Were you able to contest and/or recover those taxes from either the vendor or the DOR? If so, can you share that experience?

No

13. Does your organization obtain computer software or related services that are for resale to your own customers?

a. If so, how do you distinguish situations where you incorporate that directly into a product or service that you provide to that customer, as opposed to your own direct consumption of that product or service?

No

14. Does your organization use or consume software or related services in order to provide a taxable service to your end customers?

No

15. Does your organization provide computer software or services to related divisions affiliates, whether inside or outside Mississippi?

a. If so, is that use compensated? How are the amounts for those charges determined?

b. If compensated, does the organization distinguish between charging those affiliates for the use of third-party software as opposed to self-created or maintained systems?

c. Are those charges ever embedded in a broader management or administrative services charge?

i. If so, would you be able to isolate and identify the portion of that charge that is attributable to computer software or services?

d. If your organization is headquartered in Mississippi or your software is maintained on servers in Mississippi, did you pay Mississippi sales or use tax on the original purchase or development of those systems?

i. Has any other state tried to charge sales or use tax on the use of those systems by employees located outside Mississippi?

No. Only located in Mississippi

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