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Sales and Use Tax on Digital Products and Related Services



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Introduction

Effective January 1, 2025, the Louisiana state and local sales and use tax applies to the sale or use of digital products, prewritten computer access services, and information services (collectively referred to as “digital products and services”). Some of the products and services that fall within the definition of digital products and services may have been taxable under the law in effect prior to January 1, 2025. This document contains information and non-exclusive examples of digital products and services subject to Louisiana sales and use tax. If you have questions, please contact practitionerssalestax.policyinquiries@la.gov. This document will be periodically updated to provide guidance to taxpayers.

Retail Sale and Use of Digital Products

Retail Sale

A tax is imposed on retail sales of all of the following

- tangible personal property;
- taxable services; and
- digital products.¹

Sales and use tax apply to the sale of a digital product obtained or delivered electronically. This includes subscriptions, access, receipt, and streaming of digital products and services. The sales and use tax apply regardless of whether the buyer has the rights of permanent use, rights of less than permanent use, or rights of use conditioned on continued payment by the subscriber or buyer.²

Use

Tax is also imposed on the use in Louisiana of tangible personal property, digital products, or taxable services.³ Use means an exercise of a right or power to use, consume, possess, or store that is acquired by a sale for use of tangible personal property, or a digital product.⁴ Use does not include:

- resale of a digital product in the same form that the buyer receives or is to receive the digital product.⁵
- consuming a digital product in the production of a new taxable product or service where the digital product becomes an ingredient or component of the new taxable product or service.⁶
- the use or transfer of a digital product by the transferor obtained by the end user free of charge.⁷

¹ La. R.S. 47:301(10)

² La. R.S. 47:301(31) and (32)

³ La. R.S. 47:301(19)

⁴ La. R.S. 47:301(18)

⁵ La. R.S. 47:301(10)(a)

⁶ La. R.S. 47:301(10)(b)

⁷ La. R.S. 47:301(10)(c)

Definition of a Digital Product

Digital Products are products that are transferred electronically and include:

1. Digital audiovisual works
2. Digital audio works
3. Digital books
4. Digital codes
5. Digital applications and games
6. Digital periodicals and discussion forums.⁸

Digital products also include any otherwise taxable tangible personal property that is transferred electronically.

Transferred Electronically

Transferred electronically means that the product is obtained by the purchaser by any means other than tangible storage media. This includes products that are delivered digitally, streamed, or accessed. It includes products that are purchased singly, by subscription, or in any other manner, including maintenance, updates, and support.⁹ It does not matter if the seller grants permanent or less than permanent use or if the transaction is conditioned upon payment. The digital product does not have to be physically transferred to the purchaser. If the purchaser can access the product, it is considered transferred electronically.¹⁰

Digital Audiovisual Works

Digital audiovisual works are images that, when shown in succession, impart an impression of motion, together with accompanying sounds. Examples include, but are not limited to, movies, music videos, news and entertainment programs, and live events.¹¹

Specifically, sales and use tax applies to a charge for a digital download or stream of a prerecorded motion picture, music video, news or entertainment program, live event, sporting event, tutorial, etc. A charge to download or access prerecorded audio and video content is also subject to the sales and use tax.

Example 1: A company operates a website that allows customers to purchase and view prerecorded music concerts. The prerecorded music concerts are digital audiovisual works and are subject to sales and use tax.

⁸ La. R.S. 47:301(31)

⁹ La. R.S. 47:301(31)(a)

¹⁰ La. R.S. 47:301(32)

¹¹ La. R.S. 47:301(31)(b)(iii)

Streaming Audio and Video Services

A monthly charge for streaming audio and video is subject to sales and use tax. Sales, licenses, and subscriptions of digital products to end users are subject to sales and use tax, whether that use is limited to a specific time period or permanent.

Example 2: For a charge of \$9.99 per month Cinemaflicks grants the consumer the right to stream and view movies and television shows on an unlimited basis. The charge for the right to stream and view movies and shows is subject to sales and use tax.

Digital Audio Works

Digital audio works are works that result from the fixation of a series of musical, spoken, or other sounds that are transferred electronically. Examples include, but are not limited to, prerecorded music, live music, readings of books or other written materials, speeches, ringtones, or other sound recording.¹²

Digital Books

Digital books are books that are transferred electronically.¹³ Examples include, but are not limited to, ebooks, online yearbooks, and digital textbooks. The sale of a textbook, whether in tangible form or delivered electronically, is subject to Louisiana sales and use tax unless a specific exemption applies. The purchase of an access code to view and/or download an electronic book is also taxable as the sale of a digital book. In each of these cases, sales tax must be charged whether the sale is made by an educational institution or a commercial vendor, unless a specific exemption applies.

Digital Codes

Digital codes are codes that provide a right to obtain one or more digital products. This includes codes used to access or obtain any digital products that have been previously purchased but does not include traditional gift cards with monetary value redeemable for non-digital products.

Digital code may be obtained by any means, including: (1) in a tangible form, such as a card, imprint or other storage product; (2) electronically through computer-mediated communications such as e-mail, text or messaging; or (3) through subscriptions, streaming, or other access.

Digital codes include, but are not limited to, codes that can be used to obtain movies, songs or software.¹⁴ Examples of digital codes include but are not limited to:

1. A code on a paper insert in a physical movie package that can be used to redeem a digital version of the movie; or

¹² La. R.S. 47:301(31)(b)(ii)

¹³ La. R.S. 47:301(31)(b)(iv)

¹⁴ La. R.S. 47:301(31)(b)(v)

2. A code found in a digital library and in email instructions that is required to unlock a digital download of software or a game.

Example 3: A retail store sells a variety of gift cards that can be used to purchase goods, services, and digital products from other vendors. A customer purchases a gift card containing a unique code that is activated upon purchase and gives the purchaser a one-month subscription to a gaming application. The gift card can only be used to redeem the one-month subscription. The sale of the gift card is subject to sales tax because it is a sale of a digital code that can only be used to purchase digital products.

Example 4: Same facts as above in *Example 3* except that the gift card can be used to purchase goods and download video games at another vendor's website. The sale of the gift card is not subject to sales tax because it is redeemable for an item other than a digital product.

Example 5: A customer purchases a \$50 gift certificate from a vendor's website. The gift certificate entitles the purchaser to a limited amount of time to access video games online. Upon purchase, the customer is sent an e-mail with a unique code to use at the vendor's website to access video games online. The gift certificate is a sale of digital code and is subject to sales tax.

Digital Applications and Games

Digital applications ("apps") and games are any applications or games, including add-ons or additional content that can be used by a computer, mobile device, or tablet.¹⁵ Examples of digital apps include, but are not limited to, Tasker, Duolingo, Password Manager, Bleacher Reports, Houzz, Evite, TripIt, Headspace, and Calm.

Digital games are games played on a computer, game system, television, or mobile device. A charge to access, download, stream, or use video or online games is subject to the sales and use tax. A charge to access, download, stream, or use virtual items, such as avatars, backgrounds, skins, renders, and in-app purchases, purchased for use in a video or online game is also subject to the sales and use tax. If games or apps are provided free of charge they are not taxed as digital products. But any add-ons or in-app purchases will be subject to sales or use tax as a digital product.

Examples of digital games include, but are not limited to, Halo, Call of Duty, Fortnite, Minecraft, Grand Theft Auto, Hearthstone, Pokeman Go, Subway Surfers, and Candy Crush.

Digital Periodicals and Discussion Forums

Digital periodicals and discussion forums mean digital newspapers, digital magazines, other digital periodicals, chat room discussions, weblogs, or other similar products.¹⁶ Examples include, but are not limited to, digital access to the New York Times or the Wall Street Journal, digital access to the New Yorker or National Geographic, Benzinga Pro, Highstrike, Slack, and Mighty Networks.

¹⁵ La. R.S. 47:301(31)(b)(i)

¹⁶ La. R.S. 47:301(31)(b)(vi)

The sale of a book, e-book, magazine, newspaper, periodical, chat room discussion, weblog, or any similar product for a charge is subject to sales and use tax whether delivered electronically or in tangible form. The sale of a newspaper distributed by the publisher at no charge is not subject to the sales tax whether delivered electronically or in tangible form.

Sales and use tax apply to access charges and subscriptions to a chat room, discussion, weblog, or any other venue that permits users to communicate electronically in real time.

Example 6: A publisher sells a subscription to access a weekly newsletter with articles on tax and accounting issues. Each subscriber receives the same weekly newsletter as all other subscribers. The publisher's website allows the subscriber to search for previously published articles in its weekly subscription. The subscription charge is subject to sales and use tax.

Example 7: A company operates a website that allows users to post a profile of themselves and interact with other users in real time. There is no charge for the user to sign up, create a profile, and interact with other users. However, the company offers a premium subscription plan for a monthly access fee. The premium subscription plan provides the same interactive features as the free service but allows users additional content and features. A chat room discussion, weblog, or any other similar product that is transferred electronically is considered a digital product and the premium subscription is subject to sales and use tax.

Software

Software is tangible personal property that has always been subject to sales and use tax if delivered in tangible form or installed or downloaded to a device located in Louisiana. Software transferred electronically meets the definition of digital product effective January 1, 2025. Additionally, the sale of prewritten computer software access services delivered or obtained electronically are now specifically identified as subject to Louisiana sales and use tax as of January 1, 2025.¹⁷ See the section on Prewritten Computer Software Access Services for more information.

Prior law contained an exemption for customer computer software. That exemption has been suspended since April 1, 2016, making all custom computer software subject to state sales and use tax since that date. Act 10 of the 2024 Third Extraordinary Session permanently eliminates the exemption for custom computer software resulting in all software being taxed the same.

Maintenance, Updates, and Support

Maintenance refers to ongoing services provided to ensure that digital products function properly over time. Maintenance is taxable if it includes updates, repair, or enhancement delivered in tangible form or electronically. Maintenance that is purely support-based (i.e., answering questions or troubleshooting) is not taxable if separately stated.

¹⁷ La. R.S. 47:301.3(9)

Updates to digital products include new versions of or enhancements to existing digital products which may include patches, fixes, or added features. Updates are taxable whether delivered electronically or on tangible media.

Support means assistance provided to end users for troubleshooting, usage help, or general guidance related to digital products. Support is not taxable provided it is separately stated and clearly billed as consulting or training. Support that modifies or repairs software functionality is taxable. Support is also taxable when bundled with a taxable digital product or maintenance agreement.

Non-Digital Products

Digital products do not include:

- Intangibles like patents, stocks, bonds, goodwill, trademarks, franchises, or copyrights.
- Telecommunications services subject to telecommunications tax.
- Internet access service charges.
- An electronically transferred work product from a professional such as an accountant, doctor, lawyer, architect, engineer, surveyor and other professionals regulated under Title 37 of the Louisiana Revised Statutes if it primarily involves human effort that originated after the service was requested.
- A product having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities where the purchaser holds a copyright or other intellectual property interest in the product, in whole or in part, if the purchaser uses the product solely for commercial purposes, including advertising or other marketing activities.
- Cable television services, direct-to-home satellite services, video programming services provided by cable television or satellite providers, or satellite digital audio radio services.¹⁸ However, these services are subject to the state general sales tax, as well as an additional 5% tax.¹⁹

Services

Taxable Services

Under Louisiana law, only specifically enumerated services are subject to the sales and use tax. A taxable service is subject to sales and use tax regardless of how the service is delivered.

Non-Taxable and Professional Services

Any service that is not listed as a taxable service in law is not subject to the sales and use tax regardless of how the service is delivered.

¹⁸ La. R.S. 47:301(31)(c)

¹⁹ La. R.S. 47:301.1(F)(2)

Additionally, the sales and use tax does not apply to a non-taxable professional service that involves the sale of a digital product as an inconsequential element for which no separate charge is made. Examples of non-taxable professional services that may involve the sale of a digital product as an inconsequential element are services rendered by physicians, dentists, lawyers, accountants and other professionals licensed or regulated by the provisions of Title 37 of the Louisiana Revised Statutes of 1950.²⁰

Example 8: An attorney is engaged to provide estate planning services for a client in Louisiana. A last will and testament and related documents are executed by the client. The attorney provides a copy of the will and the related documents to the client. The client also downloads a PDF of the estate planning documents from the attorney's client portal. The invoice reads "\$900 for will drafting and estate planning services". The attorney's services are non-taxable. The copies and PDFs of the estate planning documents are an inconsequential element of the service. The charge for the creation and execution of the estate planning documents is not subject to the sales and use tax.

Example 9: A return preparer provides tax preparation services to a Louisiana client, who then downloads a PDF of the tax return. The client requests additional printed copies of the tax return. The invoice issued to the client shows: "\$500 for tax return preparation, \$40 for software use, and \$25 for copies of a 250-page return". Return preparation is a non-taxable service. The electronically obtained tax return and software use are both inconsequential elements to the non-taxable service. As a result, there is no sales tax due on the return preparation or the software use. However, sales and use tax does apply to the separately stated charge for multiple copies of the return because photocopying is a taxable service.

If there was a single charge of \$565 for the items listed, or the invoice contained a single line-item for "tax preparation and related services", no sales tax would be due. In that case, the entire charge is not taxable because the tax preparation service is the true object of the transaction.

Example 10: A patient makes a virtual appointment with a doctor to discuss a medical concern instead of visiting in person at the doctor's office. Since healthcare is not a taxable service, the doctor's professional service is not subject to sales tax, even though it is delivered electronically.

Example 11: A company hires a website designer to design a website for their business. The website design services themselves are not taxable services. However, if the website designer uses software to perform their work, they may be responsible for paying sales or use tax on that software.

Taxable Digital Services

Act 11 of the 2024 Third Extraordinary Session adds the furnishing of prewritten computer access services and information services as taxable services.

²⁰ La. R.S. 47:301(31)(c)(iv)

Prewritten Computer Software Access Services

Prewritten computer software access services are charges made to customers for the right to access and use prewritten computer software, where possession of the software is maintained by the seller or a third party regardless of whether the charge for the services is on a per use, per user, per license, subscription, or some other basis.²¹ Prewritten computer software access services include what is commonly referred to as Software-as-a-Service (SaaS).

Examples of prewritten computer software access services include, but are not limited to, Office 365, TurboTax, Intuit, Zoom, Salesforce, Dropbox, Docusign, Adobe, Slack, and Ancestry.

Example 12: A company sells subscriptions or charges a one-time fee for access to software that allows customers to design their own websites. The charge for the use of the software that allows customers to design their own websites is taxable as a prewritten computer software access service.

Example 13: A website allows employers to post employment opportunities online. Job seekers can search, view, and apply to employment opportunities online. The operator of the website charges the employers a fee to post the employment opportunities online. This constitutes prewritten computer software access services and is taxable

Information Services

Information services include:

1. Electronic data retrieval or research; and
2. Collecting, compiling, analyzing or furnishing of information such as general or specialized news, other current information or financial information, by printed or electronic means.²²

Information services include delivering or providing access to information through databases or subscriptions. Information services include services that meet the definitions regardless of whether the services are transferred physically or electronically.

Examples of Information Services include but are not limited to the following:

Examples of Information Services	
Newsletters	<ul style="list-style-type: none">▪ Penguin Random House▪ TheShimm▪ Morning Brew
Tax guides	<ul style="list-style-type: none">▪ Wolters Kluwer CCH AnswerConnect
Research publications	<ul style="list-style-type: none">▪ The New England Journal of Medicine▪ American Economic Review

²¹ La. R.S. 47:301.3(9)

²² La. R.S. 47:301.3(10)

Examples of Information Services	
Financial market, investment, circulation, credit, stock market or bond rating reports	<ul style="list-style-type: none"> ▪ Fitch Ratings ▪ Qapital ▪ The Motley Fool
Mailing lists	<ul style="list-style-type: none"> ▪ Mailchimp ▪ Constant Contact ▪ AWeber
Abstracts of title	<ul style="list-style-type: none"> ▪ Self-explanatory
News clipping services	<ul style="list-style-type: none"> ▪ Brand24 ▪ Talkwalker
Wire services or reports	<ul style="list-style-type: none"> ▪ The Associated Press ▪ Reuters ▪ Bloomberg News
Scouting reports	<ul style="list-style-type: none"> ▪ National Scouting Report ▪ Total Football Analysis ▪ Scouted Notebook
Bad check lists	<ul style="list-style-type: none"> ▪ ChexSystems ▪ TeleCheck ▪ Certegy
Broadcast rating services	<ul style="list-style-type: none"> ▪ Neilson Media Research ▪ Television Bureau of Advertising
Credit reports	<ul style="list-style-type: none"> ▪ Equifax ▪ Experian ▪ TransUnion
Subscriptions to genealogical, financial or similar databases	<ul style="list-style-type: none"> ▪ Ancestry ▪ FamilySearch
Severe weather alerts, for an annual fee	<ul style="list-style-type: none"> ▪ Storm Shield ▪ WeatherTAP
Pharmaceutical market research data	<ul style="list-style-type: none"> ▪ IQVITA Longitudinal Prescription Data ▪ Symphony Health Solutions ▪ Wolters Kluwer ▪ Nielson Health
Internet user statistics	<ul style="list-style-type: none"> ▪ Google Analytics ▪ Mixpanel ▪ Amplitude
Legislative tracking services	<ul style="list-style-type: none"> ▪ LegisScan ▪ State Net ▪ Legiscon
Sales lead generators	<ul style="list-style-type: none"> ▪ CIENCE ▪ RocketReach ▪ SalesRoads
Data retrieval and/or research such as stock quotations, court cases, administrative hearings	<ul style="list-style-type: none"> ▪ Nasdaq Consolidated Quotes and Trades ▪ Public Access to Court Electronic Records (PACER)
Global positioning system services such as driving directions, sports, news or similar	<ul style="list-style-type: none"> ▪ Kayo Business Fleet GPS Tracker ▪ Family1st ▪ FleetUp

Examples of Information Services

information provided through satellite audio programming services	
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Examples of services which are NOT information services:

- Real estate appraisal services
- Criminal background checks
- Polygraph tests
- Consulting services to advise clients on computer hardware/software needs
- Attorney services
- Environmental testing services that include reports on factors such as the condition of the property, levels of a particular substance, habitability, etc.
- Payroll processing services
- Payment processing services
- Court stenography services
- Accident reconstruction services
- Preparation and filing of articles to form corporations or limited liability companies
- Educational seminars, classes or courses
- Bank account balances
- Medical lab tests
- Furnishing of academic transcripts
- Information sold to radio, television stations, or newspapers
- Information gathered or compiled on behalf of a particular client that is of a proprietary nature and may not be sold to others. Examples include the following if proprietary in nature:
 - client specific purchase and sales data
 - custom market research reports
 - client specific client website usage and information reports

Additionally, the following are statutorily excluded from the definition of information services:

1. Information sold to an FCC licensed newspaper or television or radio station if gathered or purchased for direct use in newspapers or broadcasts.
2. Charges by financial institutions for account balances.
3. Proprietary information compiled on behalf of a client for their exclusive use.
4. Internet access services, including information services merely incidental to providing internet access services.
5. Data processing, including payment processing services.²³

Example 14: A publisher sells reports which contain daily information on construction projects. The publisher collects data and publishes reports on a subscription basis. The daily reports provide information for construction companies to allow them to accurately bid on current and upcoming

²³ La. R.S. 47:301.3(10)(b)

construction projects. Each subscriber who receives a report receives the same report as all other subscribers. The publisher's activities are considered an information service; thus, the subscription is subject to the sales tax.

Example 15: A Louisiana financial service company contracts with an investment firm in New York to receive information and advice on which stocks to invest in on behalf of clients. The investment firm provides a customized investment report to the Louisiana financial service company. The charge for this customized report is not subject to Louisiana sales tax since it is based on private proprietary information about the company's clients and may not be disclosed to anyone other than the company.

Example 16: An out-of-state company runs a website that helps homeowners find contractors for services such as home repair, cleaning, and lawn care. Homeowners sign up to find services in their area, and contractors pay the company to advertise on the site. Homeowners provide contact and location information to the website if they are interested in a service. The website then sends a customized list of potential customers, called "leads" to the contractors for an additional charge. The charge for the customized list is considered an information service and is subject to sales tax. The information contained on the customized list is not proprietary in nature since it is based on general information about the contractors that is already publicly available on the company website.

Example 17: A publisher sells a subscription to access a weekly newsletter with articles on tax and accounting issues. Each subscriber receives the same weekly newsletter as all other subscribers. The publisher's website allows the subscriber to search for previously published articles as part of the subscription. The subscription charge is considered an information service and is subject to sales tax.

Example 18: A legal research company sells a monthly subscription that allows subscribers to research federal and state statutes, regulations and court cases. For an additional charge, the company allows subscribers to download PDFs of treatises, textbooks, journals, and articles that are outside of the research service subscription. The subscription is considered an information service and is subject to the sales tax. The additional charge for the separate downloads is also subject to the sales and use tax because the downloads are a digital product.

Exclusions and Exemptions for Digital Products and Services

Exemptions for Digital Products, Computer Software, Prewritten Computer Software Access Services and Information Services

Digital products, computer software, prewritten computer software access services and information services (collectively referred to as "digital tools") are exempt from sales and use tax if they meet one of the following exemptions:

1. Commercial Production Exemption: All of the following criteria must be met:
 - a. purchased exclusively for commercial purposes,
 - b. used directly in the production of goods and services for sale to customers, and

- c. the goods or services produced and sold are subject to sales and use tax or insurance premium tax.²⁴
2. Financial Institution Exemption: Must be purchased and used by FDIC insured financial institutions (or their affiliates) for storing, transmitting, processing, or analyzing customer and account information, facilitating transactions, account processes, investment processes, lending processes, or security and compliance.²⁵
3. Health Care Institution Exemption: Must be used by licensed healthcare facilities and providers for storing or transmitting healthcare information or for the diagnosis or treatment of a medical condition.²⁶

For purposes of the Commercial Production Exemption, “used directly” means the direct application or incorporation of a digital tool into the creation, development or production of a final product or service for sale to a customer. A digital tool is considered “used directly” when it is an essential component and directly contributes to the creation, production process, or functioning of the final product or service, and is not merely supportive, administrative, or ancillary in nature. This excludes tools used for business management, planning, communication, or analysis that do not directly transform inputs into salable goods or services.

Digital tools, whether in the form of applications, systems, methods, or otherwise, that serve as business management tools (e.g., for organizing labor, materials, equipment, or other business operations) are not considered to be used directly in the production of goods or services for sale to customers and therefore do not qualify for the exemption.

Similarly, digital tools designed to improve efficiency or productivity—such as project management software, inventory systems, accounting programs, performance tracking dashboards, customer relationship management tools, or communication platforms—are not used directly in production and are likewise not exempt.

Examples of non-exempt digital tools include:

- Tools to enhance customer experience or build trust
- Social media platforms
- Customer relationship management (CRM) software
- Online reputation management tools
- Inventory management systems
- Sales tracking systems
- Marketing automation software
- Data-driven decision-making tools
- Website and social media analytics software
- Sales intelligence and predictive analytics tools
- Fleet management software

²⁴ La. R.S. 47:305.12(A)

²⁵ La. R.S. 47:305.12(C)

²⁶ La. R.S. 47:305.12(D)

- Digital communication and collaboration tools
- Tools that support data analysis

Example 19: A bakery owner purchases and downloads basic accounting software to keep track of sales and create invoices and profit and loss statements. The software is not used directly in the production of baked goods for sale to customers; therefore, the sale of the software is subject to sales tax.

Example 20: A bakery owner utilizes software that facilitates automated measuring of ingredients. This software is used directly in the production of baked goods for sale to customers; therefore, the sale of the software is not subject to sales tax.

Example 21: An owner of an accounting firm purchases and downloads tax preparation software to be used to provide tax preparation services to clients of the firm. Even though the tax preparation software is used directly in the provision of services for sale to customers, tax preparation is not a taxable service. Therefore, the sale of the software does not qualify for an exemption and is subject to sales and use tax.

Example 22: A vendor licenses prewritten computer software access to a customer located in Louisiana. The prewritten computer software access is used to identify raw materials needed to fulfill future orders and for supply chain management and other inventory management functions. The prewritten computer software access is not used directly in the production of goods or services for sale to customers; therefore, the sale of the prewritten computer software access is subject to sales and use tax.

Example 23: A vendor licenses a software package to a customer located in Louisiana that includes a broad array of business enabling products such as email, word processing, spreadsheets, presentations, storage, and retrieval products. The software is not used directly in the production of goods or services for sale to customers; therefore, the software license is subject to sales and use tax.

Example 24: A vendor licenses point of sale software to a grocery store located in Louisiana. The point-of-sale software is used to: calculate the price of products or services, plus taxes; track inventory levels and adjust prices based on sales or discounts; generate reports on sales trends, employee performance, and other key metrics; capture customer information, such as email addresses, for marketing initiatives. The services provided by the software help conduct and manage the sales transactions but are not used directly in providing goods or services for sale to customers, therefore the license of the software is subject to sales and use tax.

Example 25: A vendor licenses software to a business located in Louisiana that allows customers to schedule services through a website or social media channel. If the business is an auto repair shop, the software is not used directly in the provision of repair services to customers. Therefore, the sale of the software license is subject to sales and use tax.

Example 26: A vendor licenses automotive diagnostic software to an automobile dealership. The software is used directly in the provision of taxable car repair services to customers. The software falls within the Commercial Production Exemption. Therefore, the sale of the software license is not subject to sales and use tax.

Example 27: A company subscribes to a financial services database exclusively for business purposes. The company uses the information that it obtains from the financial services database to prepare and sell an investment newsletter to its customers. The financial services database (prewritten computer software access service) is used directly in the production of a good or service for sale to its customers (i.e., the investment newsletter) which is taxable as an information service. The company is entitled to an exemption on its subscription to the financial services database because the subscription was (a) purchased exclusively for commercial purposes, (b) used directly in the production of goods and services for sale to customers, and (c) the goods or services produced and sold are subject to sales and use tax.

Example 28: A vendor licenses prewritten computer software access to a customer located in Louisiana. The prewritten computer software access is used for computer-aided manufacturing that generates machine tool paths for automated manufacturing processing. The prewritten computer software access is used directly in the production of goods or services for sale to a customer; therefore, the software would not be subject to sales and use tax as long as the goods or services produced and sold are subject to sales and use tax or insurance premium tax.

Example 29: Bayou Bank is an FDIC insured institution and purchases prewritten computer software access services that automate and manage essential banking operations such as account management, transaction processing, and reporting. The prewritten computer software access services are not subject to sales and use tax as they meet the requirements of the Financial Institutional Exception.

Example 30: General Hospital purchases a digital product that manages patient records, streamlines workflows and enhances clinical decision making. The software would not be subject to sales and use tax as it qualifies for the Healthcare Institutional Exception.

Items That Are Not Digital Products

The following are not digital products subject to sales and use tax:

- Digital products consumed in producing a new product for sale, where the digital product becomes an ingredient or component of the new product.²⁷
- Digital products that are made available free of charge.²⁸

²⁷ La. R.S. 47:301(10)(b)

²⁸ La. R.S. 47:301(10)(c)

The following are also not deemed to be digital products or information services subject to sales and use tax:

- Cloud Storage Services and Data Transfer Fees
- Web Hosting Services
- Data Processing

Web hosting services refer to the providing of storage for website files, domain name connections to make the site publicly accessible, and management of email addresses. Web hosting does refer to website building or website design.

Exclusions for Sales to Certain Non-End Users and for Resale of Digital Products and Services

Sales and use tax do not apply to a sale to a person that receives a digital product for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution, or exhibition of the digital product.²⁹

The consumption of a digital product to produce a new product or taxable service for sale is not taxable if the digital product becomes an ingredient or component of the new product or taxable service.³⁰ A digital code becomes an ingredient or component of a new product or taxable service if the digital product, through the use of the digital code, becomes an ingredient or component of the new product or taxable service.

A person may claim the resale exclusion if a digital product is purchased with the intention of reselling the digital product in the same form that the buyer receives or is to receive the digital product. The same requirements for obtaining, use, and record retention of resale certificates for tangible personal property apply to digital products.

Other Exemptions Applicable to Digital Products and Services

The sale of a digital product or service is subject to sales and use tax unless an exemption applies to the transaction. Sales and use tax exemptions that apply to tangible personal property also apply to the sale of digital products and services. By way of example, the following exemptions apply to digital products:

- Agricultural exemptions (R.S. 47:305.3)
- Isolated or occasional sales (R.S. 47:305(A))
- Governmental and Intergovernmental exemptions (R.S. 47:305.7)
- School and Educational Materials exemptions (R.S. 47:305.6)
- Interstate Commerce (R.S. 47:305(F))
- Property for first use in another state (R.S. 47:305.10)

Tax Exemption Certificates

²⁹ La. R.S. 47:301(33)

³⁰ La. R.S. 47:301(10)(b)

Taxpayers that qualify for one or more of these exemptions for digital products and services must complete the exemption certificate provided by the Louisiana Department of Revenue and present that exemption certificate to the dealer at the time of purchase. A dealer who fails to obtain a properly executed exemption certificate will be liable for any sales or use tax owed.

Miscellaneous

Sales Price of Digital Products

The sales and use tax are computed on the "sales price" of digital products. In general, the sales price of a digital product is the purchase price. However, sales price is broadly defined by statute to include, with certain specific exceptions, the total amount for which a digital product is sold.³¹ The use or transfer of a digital product is not subject to sales and use tax if provided by the transferor and obtained by the end user free of charge.³²

Cable Television, Satellite Television and Radio Services

Cable television, direct-to-home satellite television, video programming services purchased through cable or satellite providers, and satellite radio services are not considered digital products.³³ These services are separately enumerated services in La. R.S. 47:301.3(11). In addition to the general state sales tax rate, cable television services, direct-to-home satellite services, video programming services provided by cable and satellite providers, and satellite digital audio radio services are subject to an additional 5% state sales tax on the amounts paid or charged for such services.³⁴ This levy is imposed in lieu of a local tax.³⁵

Photography and Videography

The sale of a photograph, stock photographs or stock artwork, clip art, portrait and wedding photography, pictures, and similar products are digital products if delivered electronically. The services to produce photography, artwork, clip art, portrait and wedding photography, pictures, videos, and similar digital products are non-taxable services when they are separately itemized from the digital products on the invoice.

Example 31: Pelican Photo is a photography and video company hired by Bride to take wedding photos and videos of Bride's wedding in Louisiana.

The contract between Pelican Photo and Bride provides that:

³¹ La. R.S. 47:301(13)

³² La. R.S. 47:301(10)(c)

³³ La. R.S. 47:301(31)(c)(vi)

³⁴ La. R.S. 47:301.1(F)(2)

³⁵ La. R.S. 47:301.1(F)(3)

- Pelican Photo will charge Bride \$10,000 for the services to take the photos and videos of Bride's wedding and provide draft proofs for Bride's viewing and approval with no obligation to purchase the photos or digital products.
- If Bride requests to purchase the final digital photos or videos, Pelican Photo will charge \$2,000 to produce the final digital graphic images, photos, or videos.

Pelican Photo invoices Bride separately for the \$10,000 of services and \$2,000 to produce the final digital products. Pelican Photos is not required to charge Louisiana state sales tax on the \$10,000 of photo and videos services as they are non-taxable services.

Pelican Photo is required to charge Louisiana sales tax on the \$2,000 for the final digital products including graphic images, photos and videos.

Example 32: Same facts as Example 31 except Pelican Photo invoices Bride a lump sum price for both the photography services and the digital images. Pelican Photo would be required to charge sales tax on the full \$12,000.

Out-of-State Vendors and Remote Sellers

An out-of-state vendor is required to collect and remit sales and use tax on all taxable sales of digital products for delivery in Louisiana if the vendor's gross revenue from the sale of digital products, tangible personal and taxable services delivered in the state exceeds \$100,000 during the previous calendar year or the current calendar year.³⁶

Sourcing Sales of Digital Products

The sale of digital products, as well as tangible personal property and services, are sourced as follows:

- If received by the buyer at the seller's business location, the sale is sourced to that business location.
- If not received at the seller's business location, the sale is sourced to the location of receipt by the purchaser or purchaser's designee.
- If the location of receipt by the purchaser (or designee) is unknown, the sale is sourced to the purchaser's address contained in the business records of the seller.
- If no address is available in the seller's business records, the sale is sourced to the purchaser's address obtained at the time of sale (e.g., the purchaser's payment instrument).
- If no address is obtained at the time of sale, then the sale is sourced to:
 1. for TPP - the location from which TPP was shipped
 2. for digital products - the address from which the digital product was first available for transmission by the seller
 3. for services - the address from which the service was provided.³⁷

³⁶ La. R.S. 47:301(4)(k)(i)

³⁷ La. R.S. 47:301.4

Bundled Transactions

A bundled transaction is the retail sale of two or more items if the items are not separately stated and sold for one price, including tangible personal property, taxable or non-taxable services, or a digital product. The entire charge for a bundled transaction that involves the sale of a digital product, and a non-taxable service or non-taxable tangible personal property is subject to the sales and use tax if the dominant purpose of the sale is to obtain a digital product. The sales and use tax does not apply to a charge for a professional service that is not a taxable service but involves the sale of a digital product as an inconsequential element for which no separate charge is made.³⁸

Sales of Digital Products and Services Prior to January 1, 2025

A sale is a transaction for the present or future transfer of title or possession of a digital product or service for consideration. Sales tax is imposed on a retail sale when the transaction is entered into, regardless of when the consideration is to be paid or the digital product is to be delivered.

Example 33: A business purchases and pays for a two-year subscription to a digital product on June 1, 2024. The sales and use tax did not apply to the sale of a digital product prior to January 1, 2025. The business is not required to accrue use tax on the portion of the subscription plan accessed after January 1, 2025.

Example 34: A business purchases a license to access a digital product on June 1, 2024. The license is renewed on a monthly basis. The sales and use tax did not apply to the sale of a digital product prior to January 1, 2025. Thus, the sales tax does not apply to the charge for the monthly software license on June 1, 2024, nor the monthly charges for July through December of 2024. However, the sales and use tax applies to the charge for the monthly software license beginning on January 1, 2025.

Example 35: A business purchases digital products on December 1, 2024. The digital products are not scheduled to be delivered until April 1, 2025. The sales and use tax do not apply to the sale of the digital products because the sale occurred on the contract date of December 1, 2024. This is true even if payment is not made until actual delivery.

³⁸ La. R.S. 47:301.5