## Rules of Department of Revenue

Division 10—Director of Revenue  
Chapter 109—Sales/Use Tax—Sale of Property vs. Sale of Service

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A retailer sells canned software. The retailer also provides programming services to modify the canned software for the customer's equipment. Both the canned software and the programming services to modify the canned software are subject to tax.

(C) A software company creates custom software for a customer. The amount charged for the custom software is not subject to tax. The software company must pay tax on its purchase of any materials or supplies used to provide the custom software.

(D) A retailer sells optional software maintenance agreements for taxable software that include periodic software updates delivered through a tangible format. If the sales price of the software maintenance agreement does not separately state the price of the software updates, the entire software maintenance amount is subject to tax. If the sales price of the software updates is separately stated from the maintenance services, the price attributed to the software updates is fair market value, then only the separately stated amount of the software updates is subject to tax.

(E) A retailer sells software modules in a tangible format that are part of integrated canned accounting software. The customer selects the specific modules that it wants to purchase. The sale includes modules for the customer's general ledger, accounts receivable, and accounts payable. The sale of the software modules and services are subject to tax.

(F) In addition to the sale of canned software, a retailer creates new interfaces and custom reports for the purchaser. The services of creating the interfaces with other software and custom reports not provided by the canned software are not subject to tax if separately stated.

(G) A software company sells canned software through a tangible format. The contract for the purchase of the software includes a license for up to fifty (50) users, requires the payment of annual maintenance for three (3) years, and the software is delivered on a tangible medium.

(H) Any future periodic payments required to continue to use software purchased on a tangible format are subject to tax.

(I) The sale of software as a service is not subject to tax. The service provider must pay sales or use tax on any tangible personal property used to provide the service that is purchased or used in Missouri.

(4) Examples.

(A) A retailer sells video games on disk and by electronic download. The sale of video games on disk is subject to tax. The sale of video games by electronic download is not subject to tax.

(B) A retailer sells canned software. The retailer also provides programming services to modify the canned software for the customer's equipment. Both the canned software and the programming services to modify the canned software are subject to tax.

(C) A software company creates custom software for a customer. The amount charged for the custom software is not subject to tax. The software company must pay tax on its purchase of any materials or supplies used to provide the custom software.

(D) A retailer sells optional software maintenance agreements for taxable software that include periodic software updates delivered through a tangible format. If the sales price of the software maintenance agreement does not separately state the price of the software updates, the entire software maintenance amount is subject to tax. If the sales price of the software updates is separately stated from the maintenance services, the price attributed to the software updates is fair market value, then only the separately stated amount of the software updates is subject to tax.

(E) A retailer sells software modules in a tangible format that are part of integrated canned accounting software. The customer selects the specific modules that it wants to purchase. The sale includes modules for the customer's general ledger, accounts receivable, and accounts payable. The sale of the software modules and services are subject to tax.

(F) In addition to the sale of canned software, a retailer creates new interfaces and custom reports for the purchaser. The services of creating the interfaces with other software and custom reports not provided by the canned software are not subject to tax if separately stated.

(G) A software company sells canned software through a tangible format. The contract for the purchase of the software includes a license for up to fifty (50) users, requires the payment of annual maintenance for three (3) years, and the software is delivered on a tangible medium.

(H) Any future periodic payments required to continue to use software purchased on a tangible format are subject to tax.

(I) The sale of software as a service is not subject to tax. The service provider must pay sales or use tax on any tangible personal property used to provide the service that is purchased or used in Missouri.
years, and provides that upgrades will be provided at no additional cost as long as maintenance is paid. All of the amounts paid for the software under the contract are subject to tax.

(H) A software company sells canned software, such as tax management software in a tangible format. The software company charges one thousand dollars ($1,000) for the original copy of the software. At the time of sale, the software company also sells to the same purchaser a license for two thousand (2,000) users of the software for one million dollars ($1,000,000). The entire one million one thousand dollars ($1,001,000) is subject to tax. However, if the software company obtains written documentation from the customer that a certain number of those licenses will be used outside the state of Missouri, the number of out of state documented users’ times five hundred dollars ($500) will not be subject to tax.

(I) A software company sells canned software in a tangible format. The software company charges one thousand dollars ($1,000) for a copy of the original software and ten thousand dollars ($10,000) for a license for an additional one hundred (100) users. The purchaser subsequently purchases a license from a third party vendor for an additional twenty-five (25) users for three thousand dollars ($3,000). There is no tangible personal property delivered in connection with the purchase of the additional license for twenty-five (25) users. The eleven thousand dollar ($11,000) purchase price for the software and original one hundred (100)-user license is subject to tax. The three thousand dollars ($3,000) is not subject to tax.

(J) A software company sells canned software in a tangible format for five thousand dollars ($5,000). Eighteen (18) months later the software company sells to the same user an additional twenty (20) licenses for six thousand dollars ($6,000). No tangible personal property changes hands as a result of these twenty (20) additional licenses. The six thousand dollars ($6,000) is not subject to tax.

(K) A software company delivers canned software through an electronic transfer and also mails a copy of the software on a compact disk. The sale of the software is subject to tax.

(L) A software company sells canned software through an electronic transfer and also mails an instruction manual to the purchaser. The sale of the software is not subject to tax.


Bridge Data Co. v. Director of Revenue, 794 S.W.2d 204 (Mo. banc 1990). The sale of canned software programs that were not custom programs was the sale of tangible personal property. They were considered canned programs because they were held for sale to those who might desire them and were not specially created to meet a particular customer’s specifications or requirements.

IBM v. Director of Revenue, 765 S.W.2d 61 (Mo. banc 1989). The sale of canned computer software programs that were provided through a catalog were considered the sale of tangible personal property. The court held that the sale of programs where the taxpayer, seller, had a stock of them on disk, diskette, tape and punched cards, was a sale of tangible personal property even though the programs were sometimes subjected to minor modifications to meet the particular purchaser’s needs.

James v. TRES Computer Service, Inc., 642 S.W.2d 347 (Mo. banc 1982). Computer data and programs sold by a Texas-based corporation to a Missouri customer were intangible personal property, and they did not become tangible personal property, subject to Missouri use tax, by reason of their presence on magnetic tape. The court ruled that the data and programs in this case should not be taxed as tangible personal property because the tapes were not the ultimate objects of the sale, and it was not necessary that the information be put on the tape.

AUTHORITY: section 144.270, RSMo Supp. 2013, and section 144.705, RSMo 2000. *